

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1155

Citations Affected: IC 5-2-6; IC 10-13; IC 11-8; IC 11-13-6-5.5; IC 31-19-11-1; IC 31-30-1-2.5; IC 31-37-19-5; IC 31-37-19-9; IC 35-38; IC 35-41-4-2; IC 35-42-4-10; IC 35-42-4-11; IC 35-43-1-2; IC 35-44-3-9.3; IC 35-44-3-13; IC 35-50-6-1; IC 35-50-6-5; IC 36-2-13-5.5; IC 33-40-3-1; IC 35-33-8-3.2; IC 35-33-8-3.3; IC 5-2-1-9; IC 12-13-5-2; IC 31-9-2-29.5; IC 35-32-2-3; IC 35-37-4-6; IC 35-37-4-8; IC 35-41-1-6.5; IC 35-42-3.5; IC 35-45-6-1; IC 35-50-5-3; IC 5-2-6-3.5; IC 5-2-12.

Synopsis: Sex offenders. Conference committee report for EHB 1155. Transfers oversight of the sex offender registry from the criminal justice institute to the department of correction (DOC). Eliminates the sex and violent offender directory, transfers its functions to the sex offender registry, and requires the criminal justice institute to seek grants to support the sex offender registry. Removes a provision requiring a sex offender to register using a "registration form", and requires the DOC to establish a format for registration. Requires the DOC to transmit information concerning sex offenders to a neighborhood association, or to provide instructional material in the use of the sex offender registry. Requires the DOC to inform and train judges, prosecuting attorneys, law enforcement officials, and others in the sex offender registration procedure. Requires that the sex offender registry be updated daily and be available on the Internet, requires incarcerated sex offenders to register before being released, and shortens certain registration periods. Establishes a procedure for determining which out of state sex offenders residing in Indiana are required to register and how long they are required to register. Permits the DOC to reduce good time credit for a sex offender who does not participate in a sex offender treatment program or who does not register before being released from incarceration. Specifies that a sex offender's principal residence is the residence where the offender spends the most time. Imposes additional registration and notification requirements on sex offenders, including a requirement that a sexually violent predator notify law enforcement officials if the predator will be absent from the predator's principal residence for more than 72 hours. Requires a sexually violent predator to initially register not more than 72 hours after release from incarceration or supervision, and requires all sex offenders to register in person at least once per year. Requires a sex offender to possess a valid driver's license or state identification card. Requires a sex offender who temporarily resides in transitional housing to register once every seven days, and requires a local law enforcement authority to personally visit the listed address of a sex offender. Provides various

penalties for violations of these provisions. Makes conforming amendments. Repeals certain provisions concerning the criminal justice institute's duties with respect to sex offenders. Provides that a sexually violent predator who commits an offense after June 30, 2006, must be placed on lifetime parole when the person's term of imprisonment is completed. Provides that a person who violates a condition of lifetime parole after the person's lifetime parole has been revoked two or more times or after completing the person's sentence (including any credit time) commits a Class D felony if the violation involves contact with a child or a victim of the child molesting offense of which the person was convicted, and a Class C felony if the person has a prior unrelated lifetime parole violation conviction. Specifies that a sexually violent predator in another state whose parole is transferred to Indiana may also be required to be placed on lifetime parole. Provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board. Prohibits a sex offender from obtaining a waiver for certain residency restrictions imposed as part of probation or parole, and requires the department of correction to report to the budget committee before August 1, 2006, concerning the feasibility of recovering the expense of GPS monitoring from an offender. Requires a sexually violent predator placed on lifetime parole to wear a GPS monitoring device. Requires the department of correction to report annually to the legislative council concerning the department's implementation of lifetime parole and GPS monitoring of sex offenders, including information concerning costs, recidivism, and proposals to reduce cost or increase efficiency. Requires the sentencing policy study committee to study issues related to sex offenders, including: (1) lifetime parole; (2) GPS monitoring; (3) a classification system for sex offenders; (4) recidivism; and (5) treatment. Specifies that a sex offender's principal residence is the residence where the offender spends the most time. Expands the definition of a "sexually violent predator" to include persons at least 18 years of age who commit certain offenses and persons who commit an offense for which they must register as a sex offender who have a prior conviction for an offense for which they would be required to register as a sex offender. Prohibits a sexually violent predator from working or volunteering on school property or at a public park or youth program center or at an amusement attractive to children. Prohibits certain sex offenders from residing within: (1) 1,000 feet of a school, public park, or youth program center; or (2) one mile of the victim's residence. Provides that the DNA exception to the statute of limitations for Class B, C, and D felonies applies when DNA analysis provides evidence sufficient to charge a person with an offense. (Currently the DNA exception applies when DNA analysis permits the discovery of the offender's identity.) Requires certain persons not committed to the department of correction to submit a DNA sample. Adds crimes committed in other states that are substantially similar to certain Indiana sex crimes to the list of underlying offenses that permit a person to be charged as a repeat sexual offender. Permits a court or the parole board to prohibit a probationer or parolee who has been convicted of stalking from residing within 1,000 feet of the home of the victim. Provides various penalties for violations of these provisions. Prohibits a juvenile court from appointing a person to serve as the guardian or custodian of a child if the person is a sexually violent predator or has committed certain sex offenses. Adds a board certified psychologist or psychiatrist appointed by the governor to the sentencing policy study committee to act as a nonvoting advisor to the committee. Makes certain other changes and conforming amendments. Makes delivering contraband directly or indirectly to an inmate who has been or is being transported from a penal facility to attend judicial proceedings a Class A misdemeanor. Makes the offense a Class D felony if the contraband is a controlled substance and a Class C felony if the contraband is an item that may be used as a weapon. Authorizes a court to require a repeat offender who is placed on bail and supervised by a probation officer or pretrial services agency to pay a pretrial services fee to defray the cost of supervision by the probation department or pretrial services agency if the person has the financial ability to pay the fee and the court finds by clear and convincing evidence that supervision by the probation department or pretrial services agency is necessary to ensure: (1) the defendant's appearance in court; or (2) the physical safety of another person or the community. Specifies that

the pretrial services fee does not apply in city or town courts. Provides that the fee is divided between the county supplemental adult probation services fund and the county supplemental public defender services fund. Prohibits the bureau of motor vehicles from issuing or reinstating the license of a person who has not paid the person's pretrial services fee upon the person's conviction. Specifies that an order to pay the fee is immediately terminated if a defendant is acquitted or charges are dropped, and makes other changes relating to the collection and distribution of the fee. Makes it promotion of human trafficking, a Class B felony, for a person to recruit, harbor, or transport another person to: (1) engage the other person in forced labor or involuntary servitude; or (2) force the other person into marriage or prostitution. Makes it sexual trafficking of a minor, a Class A felony, for certain individuals to sell or transfer custody of a child less than 18 years of age for the purpose of prostitution. Makes it human trafficking, a Class C felony, for a person to pay for an individual whom the person knows has been forced into forced labor, involuntary servitude, or prostitution. Requires a court to order a person convicted of a human and sexual trafficking offense to pay restitution to the victim of the offense. Establishes a civil cause of action for victims of human and sexual trafficking offenses. Requires law enforcement officers and the division of family resources to provide certain assistance to victims of human and sexual trafficking offenses. Adds human and sexual trafficking crimes to the list of crimes that: (1) invoke certain procedures for evidence concerning protected persons; (2) can be a crime of domestic violence; (3) can be murder if a person is killed during the commission of the crime; and (4) can be a "racketeering activity". Requires the sentencing policy study committee to study issues related to human trafficking. Requires the law enforcement training board to establish minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. **(This conference committee report does the following: Specifies that a sexually violent predator must be at least 18 years of age and provides that the commission of certain offenses as a Class A or Class B felony makes a person a sexually violent predator. Permits a person to apply to remove the sexually violent predator designation after ten years, and specifies that certain residency restrictions on persons convicted of stalking apply after June 30, 2006. Adds the following language from SB 299: Makes delivering contraband directly or indirectly to an inmate who has been or is being transported from a penal facility to attend judicial proceedings a Class A misdemeanor. Makes the offense a Class D felony if the contraband is a controlled substance and a Class C felony if the contraband is an item that may be used as a weapon. Adds the following language from HB 1016: Authorizes a court to require a repeat offender who is placed on bail and supervised by a probation officer or pretrial services agency to pay a pretrial services fee to defray the cost of supervision by the probation department or pretrial services agency if the person has the financial ability to pay the fee and the court finds by clear and convincing evidence that supervision by the probation department or pretrial services agency is necessary to ensure: (1) the defendant's appearance in court; or (2) the physical safety of another person or the community. Specifies that the pretrial services fee does not apply in city or town courts. Provides that the fee is divided between the county supplemental adult probation services fund and the county supplemental public defender services fund. Prohibits the bureau of motor vehicles from issuing or reinstating the license of a person who has not paid the person's pretrial services fee upon the person's conviction. Specifies that an order to pay the fee is immediately terminated if a defendant is acquitted or charges are dropped, and makes other changes relating to the collection and distribution of the fee. Adds the following language from HB 1414: Makes it promotion of human trafficking, a Class B felony, for a person to recruit, harbor, or transport another person to: (1) engage the other person in forced labor or involuntary servitude; or (2) force the other person into marriage or prostitution. Makes it sexual trafficking of a minor, a Class A felony, for certain individuals to sell or transfer custody of a child less than 18 years of age for the purpose of prostitution. Makes it human trafficking, a Class C felony, for a person to pay for an individual whom the person knows has been forced into forced labor, involuntary**

servitude, or prostitution. Requires a court to order a person convicted of a human and sexual trafficking offense to pay restitution to the victim of the offense. Establishes a civil cause of action for victims of human and sexual trafficking offenses. Requires law enforcement officers and the division of family resources to provide certain assistance to victims of human and sexual trafficking offenses. Adds human and sexual trafficking crimes to the list of crimes that: (1) invoke certain procedures for evidence concerning protected persons; (2) can be a crime of domestic violence; (3) can be murder if a person is killed during the commission of the crime; and (4) can be a "racketeering activity". Requires the sentencing policy study committee to study issues related to human trafficking. Requires the law enforcement training board to establish minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers.)

Effective: Upon passage; July 1, 2006.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1155 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-2-6-1 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:
- 4 "Criminal justice" includes activities concerning:
- 5 (1) the prevention or reduction of criminal offenses;
- 6 (2) the enforcement of criminal law;
- 7 (3) the apprehension, prosecution, and defense of persons accused
- 8 of crimes;
- 9 (4) the disposition of convicted persons, including corrections,
- 10 rehabilitation, probation, and parole; and
- 11 (5) the participation of members of the community in corrections.
- 12 "Entitlement jurisdictions" include the state and certain local
- 13 governmental units as defined in Section 402(a) of the Omnibus Act.
- 14 "Institute" means the Indiana criminal justice institute.
- 15 "Juvenile justice" includes activities concerning:
- 16 (1) the prevention or reduction of juvenile delinquency;
- 17 (2) the apprehension and adjudication of juvenile offenders;
- 18 (3) the disposition of juvenile offenders including protective
- 19 techniques and practices;
- 20 (4) the prevention of child abuse and neglect; and
- 21 (5) the discovery, protection, and disposition of children in need of

1 services.

2 "Juvenile Justice Act" means the Juvenile Justice and Delinquency
3 Prevention Act of 1974 and any amendments made to that act.

4 "Local governmental entities" include:

5 (1) trial courts; and

6 (2) political subdivisions (as defined in IC 36-1-2-13).

7 ~~"Offender" has the meaning set forth in IC 5-2-12-4.~~

8 "Omnibus Act" means the Omnibus Crime Control and Safe Streets
9 Act of 1968 and any amendments made to that act.

10 "Trustees" refers to the board of trustees of the institute.

11 SECTION 2. IC 5-2-6-3, AS AMENDED BY P.L.192-2005,
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2006]: Sec. 3. The institute is established to do the following:

14 (1) Evaluate state and local programs associated with:

15 (A) the prevention, detection, and solution of criminal offenses;

16 (B) law enforcement; and

17 (C) the administration of criminal and juvenile justice.

18 (2) Improve and coordinate all aspects of law enforcement, juvenile
19 justice, and criminal justice in this state.

20 (3) Stimulate criminal and juvenile justice research.

21 (4) Develop new methods for the prevention and reduction of crime.

22 (5) Prepare applications for funds under the Omnibus Act and the
23 Juvenile Justice Act.

24 (6) Administer victim and witness assistance funds.

25 (7) Administer the traffic safety functions assigned to the institute
26 under IC 9-27-2.

27 (8) Compile and analyze information and disseminate the
28 information to persons who make criminal justice decisions in this
29 state.

30 (9) Serve as the criminal justice statistical analysis center for this
31 state.

32 ~~(10) Establish and maintain, in cooperation with the office of the~~
33 ~~secretary of family and social services, a sex and violent offender~~
34 ~~directory.~~

35 **(10) Identify grants and other funds that can be used by the**
36 **department of correction to carry out its responsibilities**
37 **concerning sex offender registration under IC 11-8-8.**

38 (11) Administer the application and approval process for
39 designating an area of a consolidated or second class city as a
40 public safety improvement area under IC 36-8-19.5.

41 ~~(12) Prescribe or approve forms as required under IC 5-2-12.~~

42 ~~(13) Provide judges, law enforcement officers, prosecuting~~
43 ~~attorneys, parole officers, and probation officers with information~~
44 ~~and training concerning the requirements in IC 5-2-12 and the use~~
45 ~~of the sex and violent offender directory.~~

46 ~~(14)~~ **(12)** Develop and maintain a meth watch program to inform
47 retailers and the public about illicit methamphetamine production,
48 distribution, and use in Indiana.

49 SECTION 3. IC 5-2-6-14, AS AMENDED BY P.L.64-2005,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) ~~establish and maintain support the Indiana sex and violent offender directory registry under IC 5-2-12; IC 11-8-8;~~

(3) provide training for persons to assist victims; and

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 4. IC 10-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

(1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(2) Information regarding a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-5**) obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12; IC 11-8-8.~~

(3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

SECTION 5. IC 10-13-3-27, AS AMENDED BY P.L.234-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) Except as provided in subsection (b), on request, ~~a law enforcement agencies~~ **agency** shall release ~~or allow inspection of~~ a limited criminal history to ~~or allow inspection of a~~

limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has applied for a license and **has provided** criminal history data as required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement agency;
- (5) is placed under arrest for the alleged commission of a crime;
- (6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;
- (7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
- (9) is currently residing in a location designated by the department of child services (established by IC 31-33-1.5-2) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;
- (10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
- (11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;
- (12) is being sought by the parent locator service of the child support bureau of the division of family and children;
- (13) is or was required to register as a sex ~~and violent~~ offender under ~~IC 5-2-12~~; **IC 11-8-8**; or
- (14) has been convicted of any of the following:
 - (A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
 - (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
 - (C) Child molesting (IC 35-42-4-3).
 - (D) Child exploitation (IC 35-42-4-4(b)).
 - (E) Possession of child pornography (IC 35-42-4-4(c)).
 - (F) Vicarious sexual gratification (IC 35-42-4-5).
 - (G) Child solicitation (IC 35-42-4-6).
 - (H) Child seduction (IC 35-42-4-7).
 - (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
 - (J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the

1 United States.

2 (b) A law enforcement agency shall allow inspection of a limited
3 criminal history by and release a limited criminal history to the
4 following noncriminal justice organizations:

5 (1) Federally chartered or insured banking institutions.

6 (2) Officials of state and local government for any of the following
7 purposes:

8 (A) Employment with a state or local governmental entity.

9 (B) Licensing.

10 (3) Segments of the securities industry identified under 15 U.S.C.
11 78q(f)(2).

12 (c) Any person who uses limited criminal history for any purpose not
13 specified under this section commits a Class A misdemeanor.

14 SECTION 6. IC 10-13-3-30 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) Except as
16 provided in subsection (c), on request for release or inspection of a
17 limited criminal history, law enforcement agencies may, if the agency
18 has complied with the reporting requirements in section 24 of this
19 chapter, and the department shall do the following:

20 (1) Require a form, provided by law enforcement agencies and the
21 department, to be completed. The form shall be maintained for two

22 (2) years and shall be available to the record subject upon request.

23 (2) Collect a three dollar (\$3) fee to defray the cost of processing
24 a request for inspection.

25 (3) Collect a seven dollar (\$7) fee to defray the cost of processing
26 a request for release. However, law enforcement agencies and the
27 department may not charge the fee for requests received from the
28 parent locator service of the child support bureau of the division of
29 family and children.

30 (b) Law enforcement agencies and the department shall edit
31 information so that the only information released or inspected is
32 information that:

33 (1) has been requested; and

34 (2) is limited criminal history information.

35 (c) The fee required under subsection (a) shall be waived if the
36 request relates to the **Indiana sex and violent offender directory**
37 **registry** under ~~IC 5-2-6~~ **IC 11-8-8** or concerns a person required to
38 register as a sex ~~and violent~~ offender under ~~IC 5-2-12~~ **IC 11-8-8**.

39 SECTION 7. IC 10-13-4-4 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this
41 chapter, "juvenile history data" means information collected by criminal
42 or juvenile justice agencies or individuals about a child who is alleged
43 to have committed a reportable act and consists of the following:

44 (1) Descriptions and notations of events leading to the taking of the
45 child into custody by a juvenile justice agency for a reportable act
46 allegedly committed by the child.

47 (2) A petition alleging that the child is a delinquent child.

48 (3) Dispositional decrees concerning the child that are entered under
49 IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).

(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-5** if committed by an adult; and

(B) that is obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12~~ **IC 11-8-8**.

SECTION 8. IC 10-13-6-10, AS AMENDED BY P.L.142-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) This section applies to the following:

(1) A person convicted of a felony under IC 35-42 (offenses against the person) or IC 35-43-2-1 (burglary):

(A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.

(2) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1 if the felony had been in effect:

(A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(3) A person convicted of a felony, conspiracy to commit a felony, or attempt to commit a felony:

(A) after June 30, 2005, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 2005, if the person is held in jail or prison on or after July 1, 2005.

(b) A person described in subsection (a) shall provide a DNA sample to the:

(1) department of correction or the designee of the department of correction if the offender is committed to the department of correction; ~~or~~

(2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation; ~~or~~

(3) agency that supervises the person, or the agency's designee, if the person is on conditional release in accordance with IC 35-38-1-27.

A person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

(c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court

determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake.

SECTION 9. IC 10-13-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The superintendent may issue specific guidelines relating to procedures for DNA sample collection and shipment within Indiana for DNA identification testing.

(b) The superintendent shall issue specific guidelines related to procedures for DNA sample collection and shipment by the:

(1) county sheriff or designee of the county sheriff under section 10(b)(2) of this chapter; or

(2) supervising agency or designee of the supervising agency under section 10(b)(3) of this chapter.

The superintendent shall provide each county sheriff **and supervising agency** with the guidelines issued under this subsection. A county sheriff **and supervising agency** shall collect and ship DNA samples in compliance with the guidelines issued under this subsection.

(c) The superintendent may delay the implementation of the collection of DNA samples under section 10(b)(2) **or 10(b)(3)** of this chapter in one (1) or more counties until the earlier of the following:

(1) A date set by the superintendent.

(2) The date funding becomes available by grant through the criminal justice institute.

If the superintendent delays implementation of section 10(b)(2) **or 10(b)(3)** of this chapter or terminates a delay under section 10(b)(2) **or 10(b)(3)** of this chapter in any county, the superintendent shall notify the county sheriff in writing of the superintendent's action.

SECTION 10. IC 11-8-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. **The department shall do the following:**

(1) Maintain the Indiana sex offender registry established under IC 36-2-13-5.5.

(2) Prescribe and approve a format for sex offender registration as required by IC 11-8-8.

(3) Provide:

(A) judges;

(B) law enforcement officials;

(C) prosecuting attorneys;

(D) parole officers;

(E) probation officers; and

(F) community corrections officials;

with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex offender registry.

(4) Upon request of a neighborhood association:

(A) transmit to the neighborhood association information concerning sex offenders who reside near the location of the neighborhood association; or

(B) provide instructional materials concerning the use of the Indiana sex offender registry to the neighborhood

1 **association.**

2 SECTION 11. IC 11-8-2-13 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2006]: **Sec. 13. (a) The Indiana sex offender registry**
5 **established under IC 36-2-13-5.5 and maintained by the**
6 **department under section 12 of this chapter must include the**
7 **names of each offender who is or has been required to register**
8 **under IC 11-8-8.**

9 **(b) The department shall do the following:**

10 **(1) Ensure that the Indiana sex offender registry is updated at**
11 **least once per day with information provided by a local law**
12 **enforcement authority (as defined in IC 11-8-8-2).**

13 **(2) Publish the Indiana sex offender registry on the Internet**
14 **through the computer gateway administered by the office of**
15 **technology established by IC 4-13.1-2-1, and ensure that the**
16 **Indiana sex offender registry displays the following or similar**
17 **words:**

18 **"Based on information submitted to law enforcement, a**
19 **person whose name appears in this registry has been**
20 **convicted of a sex offense or has been adjudicated a**
21 **delinquent child for an act that would be a sex offense if**
22 **committed by an adult."**

23 SECTION 12. IC 11-8-5-2 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. (a) The department**
25 **may, under IC 4-22-2, classify as confidential the following personal**
26 **information maintained on a person who has been committed to the**
27 **department or who has received correctional services from the**
28 **department:**

29 **(1) Medical, psychiatric, or psychological data or opinion which**
30 **might adversely affect that person's emotional well-being.**

31 **(2) Information relating to a pending investigation of alleged**
32 **criminal activity or other misconduct.**

33 **(3) Information which, if disclosed, might result in physical harm**
34 **to that person or other persons.**

35 **(4) Sources of information obtained only upon a promise of**
36 **confidentiality.**

37 **(5) Information required by law or promulgated rule to be**
38 **maintained as confidential.**

39 **(b) The department may deny the person about whom the information**
40 **pertains and other persons access to information classified as**
41 **confidential under subsection (a). However, confidential information**
42 **shall be disclosed:**

43 **(1) upon the order of a court;**

44 **(2) to employees of the department who need the information in the**
45 **performance of their lawful duties;**

46 **(3) to other agencies in accord with IC 4-1-6-2(m) and**
47 **IC 4-1-6-8.5;**

48 **(4) to the governor or the governor's designee;**

49 **(5) for research purposes in accord with IC 4-1-6-8.6(b);**

(6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5; or

(7) if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

(1) A provider of sex offender management, treatment, or programming.

(2) A provider of mental health services.

(3) Any other service provider working with the department to assist in the successful return of an offender to the community following the offender's release from incarceration.

(e) This subsection does not prohibit the department from sharing information available on the Indiana sex offender registry with another person.

SECTION 13. IC 11-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 8. Sex Offender Registration

Sec. 1. As used in this chapter, "correctional facility" has the meaning set forth in IC 4-13.5-1-1.

Sec. 2. As used in this chapter, "local law enforcement authority" means the:

(1) chief of police of a consolidated city; or

(2) sheriff of a county that does not contain a consolidated city.

Sec. 3. As used in this chapter, "principal residence" means the residence where a sex offender spends the most time. The term includes a residence owned or leased by another person if the sex offender:

(1) does not own or lease a residence; or

(2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex offender.

Sec. 4. As used in this chapter, "register" means to provide a local law enforcement authority with the information required under section 8 of this chapter.

Sec. 5. (a) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).

(14) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (13).

(15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

Sec. 6. As used in this chapter, "sexually violent predator" has the meaning set forth in IC 35-38-1-7.5.

Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:

(A) The sex offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

(A) exceeding fourteen (14) consecutive days; or

(B) for a total period exceeding thirty (30) days;

during any calendar year in Indiana, whether the sex offender

1 is financially compensated, volunteered, or is acting for the
2 purpose of government or educational benefit.

3 (3) A sex offender who is enrolled or intends to be enrolled on
4 a full-time or part-time basis in any public or private
5 educational institution, including any secondary school, trade,
6 or professional institution, or institution of higher education in
7 Indiana.

8 (b) Except as provided in subsection (e), a sex offender who
9 resides in Indiana shall register with the local law enforcement
10 authority in the county where the sex offender resides. If a sex
11 offender resides in more than one (1) county, the sex offender shall
12 register with the local law enforcement authority in each county in
13 which the sex offender resides. If the sex offender is also required
14 to register under subsection (a)(2) or (a)(3), the sex offender shall
15 also register with the local law enforcement authority in the county
16 in which the offender is required to register under subsection (c) or
17 (d).

18 (c) A sex offender described in subsection (a)(2) shall register
19 with the local law enforcement authority in the county where the
20 sex offender is or intends to be employed or carry on a vocation. If
21 a sex offender is or intends to be employed or carry on a vocation
22 in more than one (1) county, the sex offender shall register with the
23 local law enforcement authority in each county. If the sex offender
24 is also required to register under subsection (a)(1) or (a)(3), the sex
25 offender shall also register with the local law enforcement
26 authority in the county in which the offender is required to register
27 under subsection (b) or (d).

28 (d) A sex offender described in subsection (a)(3) shall register
29 with the local law enforcement authority in the county where the
30 sex offender is enrolled or intends to be enrolled as a student. If the
31 sex offender is also required to register under subsection (a)(1) or
32 (a)(2), the sex offender shall also register with the local law
33 enforcement authority in the county in which the offender is
34 required to register under subsection (b) or (c).

35 (e) A sex offender described in subsection (a)(1)(B) shall register
36 with the local law enforcement authority in the county in which the
37 real property is located. If the sex offender is also required to
38 register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex
39 offender shall also register with the local law enforcement
40 authority in the county in which the offender is required to register
41 under subsection (b), (c), or (d).

42 (f) A sex offender committed to the department shall register
43 with the department before the sex offender is released from
44 incarceration. The department shall forward the sex offender's
45 registration information to the local law enforcement authority of
46 every county in which the sex offender is required to register.

47 (g) This subsection does not apply to a sex offender who is a
48 sexually violent predator. A sex offender not committed to the
49 department shall register not more than seven (7) days after the

1 sex offender:

- 2 (1) is released from a penal facility (as defined in
- 3 IC 35-41-1-21);
- 4 (2) is released from a secure private facility (as defined in
- 5 IC 31-9-2-115);
- 6 (3) is released from a juvenile detention facility;
- 7 (4) is transferred to a community transition program;
- 8 (5) is placed on parole;
- 9 (6) is placed on probation;
- 10 (7) is placed on home detention; or
- 11 (8) arrives at the place where the sex offender is required to
- 12 register under subsection (b), (c), or (d);

13 whichever occurs first. A sex offender required to register in more
 14 than one (1) county under subsection (b), (c), (d), or (e) shall
 15 register in each appropriate county not more than seventy-two (72)
 16 hours after the sex offender's arrival in that county or acquisition
 17 of real estate in that county.

18 (h) This subsection applies to a sex offender who is a sexually
 19 violent predator. A sex offender who is a sexually violent predator
 20 shall register not more than seventy-two (72) hours after the sex
 21 offender:

- 22 (1) is released from a penal facility (as defined in
- 23 IC 35-41-1-21);
- 24 (2) is released from a secure private facility (as defined in
- 25 IC 31-9-2-115);
- 26 (3) is released from a juvenile detention facility;
- 27 (4) is transferred to a community transition program;
- 28 (5) is placed on parole;
- 29 (6) is placed on probation;
- 30 (7) is placed on home detention; or
- 31 (8) arrives at the place where the sexually violent predator is
- 32 required to register under subsection (b), (c), or (d);

33 whichever occurs first. A sex offender who is a sexually violent
 34 predator required to register in more than one (1) county under
 35 subsection (b), (c), (d), or (e) shall register in each appropriate
 36 county not more than seventy-two (72) hours after the offender's
 37 arrival in that county or acquisition of real estate in that county.

38 (i) The local law enforcement authority with whom a sex offender
 39 registers under this section shall make and publish a photograph
 40 of the sex offender on the Indiana sex offender registry web site
 41 established under IC 36-2-13-5.5. The local law enforcement
 42 authority shall make a photograph of the sex offender that
 43 complies with the requirements of IC 36-2-13-5.5 at least once per
 44 year. The sheriff of a county containing a consolidated city shall
 45 provide the police chief of the consolidated city with all
 46 photographic and computer equipment necessary to enable the
 47 police chief of the consolidated city to transmit sex offender
 48 photographs (and other identifying information required by
 49 IC 36-2-13-5.5) to the Indiana sex offender registry web site

established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex offender registry web site established under IC 36-2-13-5.5.

(j) When a sex offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5; and

(2) notify every law enforcement agency having jurisdiction in the county where the sex offender resides.

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration.

Sec. 8. The registration required under this chapter must include the following information:

(1) The sex offender's full name, alias, any name by which the sex offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification number, principal residence address, and mailing address, if different from the sex offender's principal residence address.

(2) A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex offender's employers in Indiana, the name and address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex offender.

(5) If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.

(6) If the sex offender is required to register for life, that the sex offender is required to register for life.

(7) Any other information required by the department.

Sec. 9. (a) Not more than seven (7) days before an Indiana sex offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender was orally informed or, if the sex offender refuses to sign the statement, certify that the sex offender was orally informed of the duty to register.

(2) Deliver a form advising the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender received the written notice or, if the sex offender refuses to sign the statement, certify that the sex offender was given the written notice of the duty to register.

(3) Obtain the address where the sex offender expects to reside after the sex offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex offender expects to reside the sex offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex offender.

(b) Not more than seventy-two (72) hours after a sex offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex offender's fingerprints, photograph, and identification factors.

(2) The address where the sex offender expects to reside after the sex offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex offender.

(4) Information regarding the sex offender's past treatment for mental disorders.

(5) Information as to whether the sex offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex offender is sentenced shall perform the duties required under subsections (a) and (b).

Sec. 10. Notwithstanding any other law, upon receiving a sex offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

Sec. 11. (a) If a sex offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex offender stays in Indiana;

the sex offender shall register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered.

(b) If a sex offender moves to a new county in Indiana, the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex offender's residence and forward all relevant

1 registration information concerning the sex offender to the local
 2 law enforcement authority in the new county. The local law
 3 enforcement authority receiving notice under this subsection shall
 4 verify the address of the sex offender under section 13 of this
 5 chapter not more than seven (7) days after receiving the notice.

6 (c) If a sex offender who is required to register under section
 7 7(a)(2) or 7(a)(3) of this chapter changes the sex offender's
 8 principal place of employment, principal place of vocation, or
 9 campus or location where the sex offender is enrolled in school, the
 10 sex offender shall register not more than seventy-two (72) hours
 11 after the change with the local law enforcement authority with
 12 whom the sex offender last registered.

13 (d) If a sex offender moves the sex offender's place of
 14 employment, vocation, or enrollment to a new county in Indiana,
 15 the local law enforcement authority referred to in subsection (c)
 16 shall inform the local law enforcement authority in the new county
 17 of the sex offender's new principal place of employment, vocation,
 18 or enrollment by forwarding relevant registration information to
 19 the local law enforcement authority in the new county.

20 (e) If a sex offender moves the sex offender's residence, place of
 21 employment, vocation, or enrollment to a new state, the local law
 22 enforcement authority shall inform the state police in the new state
 23 of the sex offender's new place of residence, employment, or
 24 enrollment.

25 (f) A local law enforcement authority shall make registration
 26 information, including information concerning the duty to register
 27 and the penalty for failing to register, available to a sex offender.

28 (g) A local law enforcement authority who is notified of a change
 29 under subsection (a) or (c) shall immediately update the Indiana
 30 sex offender registry web site established under IC 36-2-13-5.5.

31 Sec. 12. (a) As used in this section, "temporary residence" means
 32 a residence:

33 (1) that is established to provide transitional housing for a
 34 person without another residence; and

35 (2) in which a person is not typically permitted to reside for
 36 more than thirty (30) days in a sixty (60) day period.

37 (b) This section applies only to a sex offender who resides in a
 38 temporary residence. In addition to the other requirements of this
 39 chapter, a sex offender who resides in a temporary residence shall
 40 register in person with the local law enforcement authority in
 41 which the temporary residence is located:

42 (1) not more than seventy-two (72) hours after the sex offender
 43 moves into the temporary residence; and

44 (2) during the period in which the sex offender resides in a
 45 temporary residence, at least once every seven (7) days
 46 following the sex offender's initial registration under
 47 subdivision (1).

48 (c) A sex offender's obligation to register in person once every
 49 seven (7) days terminates when the sex offender no longer resides

in the temporary residence. However, all other requirements imposed on a sex offender by this chapter continue in force, including the requirement that a sex offender register the sex offender's new address with the local law enforcement authority.

Sec. 13. (a) To verify a sex offender's current residence, the local law enforcement authority shall do the following:

(1) Mail a reply form to each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(2) Mail a reply form to each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(3) Personally visit each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(4) Personally visit each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of

1 this chapter or the date the sex offender is:

2 (A) released from a penal facility (as defined in
3 IC 35-41-1-21), a secure private facility (as defined in
4 IC 31-9-2-115), or a juvenile detention facility;

5 (B) placed in a community transition program;

6 (C) placed in a community corrections program;

7 (D) placed on parole; or

8 (E) placed on probation;

9 whichever occurs first.

10 (b) If a sex offender fails to return a signed reply form either by
11 mail or in person, not later than fourteen (14) days after mailing,
12 or appears not to reside at the listed address, the local law
13 enforcement authority shall immediately notify the department and
14 the prosecuting attorney.

15 Sec. 14. At least once per calendar year, a sex offender who is
16 required to register under this chapter shall:

17 (1) report in person to the local law enforcement authority;

18 (2) register; and

19 (3) be photographed by the local law enforcement authority;
20 in each location where the offender is required to register.

21 Sec. 15. (a) A sex offender who is a resident of Indiana shall
22 obtain and keep in the sex offender's possession:

23 (1) a valid Indiana driver's license; or

24 (2) a valid Indiana identification card (as described in
25 IC 9-24-16).

26 (b) A sex offender required to register in Indiana who is not a
27 resident of Indiana shall obtain and keep in the sex offender's
28 possession:

29 (1) a valid driver's license issued by the state in which the sex
30 offender resides; or

31 (2) a valid state issued identification card issued by the state in
32 which the sex offender resides.

33 (c) A person who knowingly or intentionally violates this section
34 commits failure of a sex offender to possess identification, a Class
35 A misdemeanor. However, the offense is a Class D felony if the
36 person:

37 (1) is a sexually violent predator; or

38 (2) has a prior unrelated conviction:

39 (A) under this section; or

40 (B) based on the person's failure to comply with any
41 requirement imposed on an offender under this chapter.

42 (d) It is a defense to a prosecution under this section that:

43 (1) the person has been unable to obtain a valid driver's license
44 or state issued identification card because less than thirty (30)
45 days have passed since the person's release from incarceration;
46 or

47 (2) the person possesses a driver's license or state issued
48 identification card that expired not more than thirty (30) days
49 before the date the person violated subsection (a) or (b).

1 **Sec. 16. (a) A sex offender who is required to register under this**
 2 **chapter may not petition for a change of name under IC 34-28-2.**

3 **(b) If a sex offender who is required to register under this**
 4 **chapter changes the sex offender's name due to marriage, the sex**
 5 **offender must register with the local law enforcement authority not**
 6 **more than seven (7) days after the name change.**

7 **Sec. 17. A sex offender who knowingly or intentionally:**

8 **(1) fails to register when required to register under this**
 9 **chapter;**

10 **(2) fails to register in every location where the sex offender is**
 11 **required to register under this chapter;**

12 **(3) makes a material misstatement or omission while**
 13 **registering as a sex offender under this chapter; or**

14 **(4) fails to register in person and be photographed at least one**
 15 **(1) time per year as required under this chapter;**

16 **commits a Class D felony. However, the offense is a Class C felony**
 17 **if the sex offender has a prior unrelated conviction for an offense**
 18 **under this section or based on the person's failure to comply with**
 19 **any requirement imposed on a sex offender under this chapter.**

20 **Sec. 18. (a) A sexually violent predator who will be absent from**
 21 **the sexually violent predator's principal residence for more than**
 22 **seventy-two (72) hours shall inform the local law enforcement**
 23 **authority, in person or in writing, of the following:**

24 **(1) That the sexually violent predator will be absent from the**
 25 **sexually violent predator's principal residence for more than**
 26 **seventy-two (72) hours.**

27 **(2) The location where the sexually violent predator will be**
 28 **located during the absence from the sexually violent predator's**
 29 **principal residence.**

30 **(3) The length of time the sexually violent predator will be**
 31 **absent from the sexually violent predator's principal residence.**

32 **(b) A sexually violent predator who will spend more than**
 33 **seventy-two (72) hours in a county in which the sexually violent**
 34 **predator is not required to register shall inform the local law**
 35 **enforcement authority in the county in which the sexually violent**
 36 **predator is not required to register, in person or in writing, of the**
 37 **following:**

38 **(1) That the sexually violent predator will spend more than**
 39 **seventy-two (72) hours in the county.**

40 **(2) The location where the sexually violent predator will be**
 41 **located while spending time in the county.**

42 **(3) The length of time the sexually violent predator will remain**
 43 **in the county.**

44 **Upon request of the local law enforcement authority of the county**
 45 **in which the sexually violent predator is not required to register,**
 46 **the sexually violent predator shall provide the local law**
 47 **enforcement authority with any additional information that will**
 48 **assist the local law enforcement authority in determining the**
 49 **sexually violent predator's whereabouts during the sexually violent**

1 predator's stay in the county.

2 (c) A sexually violent predator who knowingly or intentionally
3 violates this section commits failure to notify, a Class A
4 misdemeanor. However, the offense is a Class D felony if the
5 person has a prior unrelated conviction under this section based on
6 the person's failure to comply with any requirement imposed on a
7 sex offender under this chapter.

8 Sec. 19. (a) Except as provided in subsections (b) through (e), a
9 sex offender is required to register under this chapter until the
10 expiration of ten (10) years after the date the sex offender:

- 11 (1) is released from a penal facility (as defined in
- 12 IC 35-41-1-21) or a secure juvenile detention facility of a state
- 13 or another jurisdiction;
- 14 (2) is placed in a community transition program;
- 15 (3) is placed in a community corrections program;
- 16 (4) is placed on parole; or
- 17 (5) is placed on probation;

18 whichever occurs last. The department shall ensure that an
19 offender who is no longer required to register as a sex offender is
20 notified that the obligation to register has expired.

21 (b) A sex offender who is a sexually violent predator is required
22 to register for life.

23 (c) A sex offender who is convicted of at least one (1) sex offense
24 that the sex offender committed:

- 25 (1) when the person was at least eighteen (18) years of age; and
- 26 (2) against a victim who was less than twelve (12) years of age
- 27 at the time of the crime;

28 is required to register for life.

29 (d) A sex offender who is convicted of at least one (1) sex offense
30 in which the sex offender:

- 31 (1) proximately caused serious bodily injury or death to the
- 32 victim;
- 33 (2) used force or the threat of force against the victim or a
- 34 member of the victim's family; or
- 35 (3) rendered the victim unconscious or otherwise incapable of
- 36 giving voluntary consent;

37 is required to register for life.

38 (e) A sex offender who is convicted of at least two (2) unrelated
39 sex offenses is required to register for life.

40 Sec. 20. (a) The governor may enter into a compact with one (1)
41 or more jurisdictions outside Indiana to exchange notifications
42 concerning the release, transfer, or change of address,
43 employment, vocation, or enrollment of a sex offender between
44 Indiana and the other jurisdiction or the other jurisdiction and
45 Indiana.

46 (b) The compact must provide for the designation of a state
47 agency to coordinate the transfer of information.

48 (c) If the state agency receives information that a sex offender
49 has relocated to Indiana to reside, engage in employment or a

vocation, or enroll in school, the state agency shall inform in writing the local law enforcement authority where the sex offender is required to register in Indiana of:

(1) the sex offender's name, date of relocation, and new address; and

(2) the sex offense or delinquent act committed by the sex offender.

(d) The state agency shall determine, following a hearing:

(1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana;

(2) whether an out of state sex offender is a sexually violent predator; and

(3) the period in which an out of state sex offender who has moved to Indiana will be required to register as a sex offender in Indiana.

SECTION 14. IC 11-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

(1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;

(2) official reports of the person's history of criminality;

(3) reports of earlier parole or probation experiences;

(4) reports concerning the person's present commitment that are relevant to the parole release determination;

(5) any relevant information submitted by or on behalf of the person being considered; and

(6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

(1) to be discharged from imprisonment;

(2) to be released on parole under IC 35-50-6-1;
 (3) to have a parole release hearing under this chapter;
 (4) to have a parole violation hearing;
 (5) an escaped committed offender; or
 (6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

(1) at least forty (40) days before a discharge, release, or hearing occurs; and

(2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, **is being released on lifetime parole**, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

(1) The name of the prisoner.

(2) The date of the offense.

- (3) The date of the conviction.
- (4) The felony of which the prisoner was convicted.
- (5) The sentence imposed.
- (6) The amount of time served.
- (7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

- (1) nature and circumstances of the crime for which the offender is committed;
- (2) offender's prior criminal record;
- (3) offender's conduct and attitude during the commitment; and
- (4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

- (1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;
- (2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;
- (3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;
- (4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and
- (5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

- (1) will engage in further specified criminal activity; or
- (2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

- (1) finds that special circumstances exist for the holding of a hearing; and
- (2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of

imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

- (1) the community in which the crime committed by the offender occurred;
- (2) law enforcement officers who have jurisdiction in the community in which the crime occurred;
- (3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and
- (4) friends or relatives of the offender.

If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

SECTION 15. IC 11-13-3-4, AS AMENDED BY SEA 246-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision;
- and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-5**) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-5**) to register with a sheriff ~~(or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12-5~~ **IC 11-8-8**;

(B) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, **unless the sex offender obtains written approval from the parole board; and**

(C) prohibit a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense **unless the sex offender obtains a waiver under IC 35-38-2-2.5; and**

(D) prohibit a parolee from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is ~~an~~ **a sex offender** convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, **even if the sex offender obtains a waiver under IC 35-38-2-2.5.**

(i) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(j) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 16. IC 11-13-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) This section shall not be construed to limit ~~victim's~~ **victims'** rights granted by IC 35-40 or any other law.

(b) As used in this section, "sex offense" refers to a sex offense described in ~~IC 5-2-12-4(1).~~ **IC 11-8-8-5.**

(c) As used in this section, "victim" means a person who has suffered direct harm as a result of a delinquent act that would be a sex offense if the delinquent offender were an adult. The term includes a victim's representative appointed under IC 35-40-13.

(d) Unless a victim has requested in writing not to be notified, the department shall notify the victim involved in the adjudication of a delinquent offender committed to the department for a sex offense of the delinquent offender's:

- (1) discharge from the department of correction;
- (2) release from the department of correction under any temporary release program administered by the department;
- (3) release on parole;
- (4) parole release hearing under this chapter;
- (5) parole violation hearing under this chapter; or
- (6) escape from commitment to the department of correction.

(e) The department shall make the notification required under subsection (d):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a delinquent offender from commitment to the department of correction.

The department shall supply the information to a victim at the address supplied to the department by the victim. A victim is responsible for supplying the department with any change of address or telephone number of the victim.

(f) The probation officer or caseworker preparing the predispositional

report under IC 31-37-17 shall inform the victim before the predispositional report is prepared of the right of the victim to receive notification from the department under subsection (d). The probation department or county office of family and children shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department. The probation department or county office of family and children shall supply the department with the information required by this section as soon as possible but not later than five (5) days after the receipt of the information. A victim is responsible for supplying the department with the correct address and telephone number of the victim.

(g) Notwithstanding IC 11-8-5-2 and IC 4-1-6, a delinquent offender may not have access to the name and address of a victim. Upon the filing of a motion by a person requesting or objecting to the release of victim information or representative information, or both, that is retained by the department, the court shall review in camera the information that is the subject of the motion before ruling on the motion.

(h) The notice required under subsection (d) must specify whether the delinquent offender is being discharged, is being released under a temporary release program administered by the department, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the delinquent offender.
- (2) The date of the delinquent act.
- (3) The date of the adjudication as a delinquent offender.
- (4) The delinquent act of which the delinquent offender was adjudicated.
- (5) The disposition imposed.
- (6) The amount of time for which the delinquent offender was committed to the department.
- (7) The date and location of the interview (if applicable).

SECTION 17. IC 31-19-11-1, AS AMENDED BY P.L.129-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

- (1) the adoption requested is in the best interest of the child;
- (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;
- (3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
- (4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;
- (5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A felony sex offense under IC 35-42-4.

(11) Carjacking (IC 35-42-5-2).

(12) Arson (IC 35-43-1-1).

(13) Incest (IC 35-46-1-3).

(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(15) Child selling (IC 35-46-1-4(d)).

(16) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(17) A felony relating to controlled substances under IC 35-48-4.

(18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~). **IC 11-8-8-5**.

SECTION 18. IC 31-30-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child if the person is:**

(1) a sexually violent predator (as described in IC 35-38-1-7.5);

or

(2) a person who was at least eighteen (18) years of age at the time of the offense and who committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury.

SECTION 19. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 5. (a)** This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under ~~IC 5-2-12-4~~ **IC 11-8-8-5** require a child who is adjudicated a delinquent child for an act that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-5** if committed by an adult to register with the sheriff ~~(or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12~~ **IC 11-8-8**.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for

a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 20. IC 31-37-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a juvenile court makes a determination under ~~IC 5-2-12-4~~, **IC 11-8-8-5**, the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

(1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and

(2) committed an act that, if committed by an adult, would be:

(A) murder (IC 35-42-1-1);

(B) kidnapping (IC 35-42-3-2);

(C) rape (IC 35-42-4-1);

(D) criminal deviate conduct (IC 35-42-4-2); or

(E) robbery (IC 35-42-5-1) if the robbery was committed while armed with a deadly weapon or if the robbery resulted in bodily injury or serious bodily injury;

order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).

SECTION 21. IC 35-38-1-7.5, AS AMENDED BY SEA 246-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in ~~IC 5-2-12-4~~ **IC 11-8-8-5**. **The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).**

(b) A person who:

(1) **being at least eighteen (18) years of age**, commits an offense described in: ~~IC 5-2-12-4~~:

(A) **by using or threatening the use of deadly force**;

(B) **while armed with a deadly weapon**; or

(C) **that results in serious bodily injury to a person other than a defendant**;

(2) **is at least eighteen (18) years of age and commits an offense described in ~~IC 5-2-12-4~~ against a child less than twelve (12) years of age**; or

(3) **commits an offense described in ~~IC 5-2-12-4~~ while having a previous unrelated conviction for an offense described in ~~IC 5-2-12-4~~ for which the person is required to register as an offender under ~~IC 5-2-12~~**;

- (A) IC 35-42-4-1;
- (B) IC 35-42-4-2;
- (C) IC 35-42-4-3 as a Class A or Class B felony;
- (D) IC 35-42-4-5(a)(1);
- (E) IC 35-42-4-5(a)(2);
- (F) IC 35-42-4-5(a)(3);
- (G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
- (H) IC 35-42-4-5(b)(2); or
- (I) IC 35-42-4-5(b)(3) as a Class A or Class B felony; or
- (2) commits an offense described in IC 11-8-8-5 while having a previous unrelated conviction for an offense described in IC 11-8-8-5 for which the person is required to register as an offender under IC 11-8-8;

is a sexually violent predator.

(c) This section applies whenever a court sentences a person for a sex offense listed in ~~IC 5-2-12-4~~ **IC 11-8-8-5** for which the person is required to register with the sheriff ~~(or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12~~ **IC 11-8-8**.

(d) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator under subsection (b).

(e) If the court does not find the person to be a sexually violent predator under subsection (b), the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders to determine if the person is a sexually violent predator under subsection (a).

(f) If the court finds that a person is a sexually violent predator:

- (1) the person is required to register with the sheriff ~~(or the police chief of a consolidated city)~~ **local law enforcement authority** as provided in ~~IC 5-2-12-13(b)~~ **IC 11-8-8**; and
- (2) the court shall send notice of its finding under this subsection to the ~~criminal justice institute~~ **department of correction**.

(g) A person who is found by a court to be a sexually violent predator ~~under subsection (e)~~ may petition the court to consider whether the person ~~is~~ **should** no longer ~~be considered~~ a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

- (1) the sentencing court makes its finding under subsection (e); or
- (2) **a person found to be a sexually violent predator under subsection (b) is released from incarceration.**

A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person ~~is~~ **should** no longer ~~be considered~~ a sexually violent predator, the court shall send notice to the ~~Indiana criminal justice institute~~ **department of correction** that the person is no longer considered a sexually violent predator. **Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.**

SECTION 22. IC 35-38-1-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 27. (a) If a court imposes a sentence that does not involve a commitment to the department of correction, the court shall require a person:**

- (1) convicted of an offense described in IC 10-13-6-10; and**
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6;**

to provide a DNA sample as a condition of the sentence.

(b) If a person described in subsection (a) is confined at the time of sentencing, the court shall order the person to provide a DNA sample immediately after sentencing.

(c) If a person described in subsection (a) is not confined at the time of sentencing, the agency supervising the person after sentencing shall establish the date, time, and location for the person to provide a DNA sample. However, the supervising agency must require that the DNA sample be provided not more than seven (7) days after sentencing. A supervising agency's failure to obtain a DNA sample not more than seven (7) days after sentencing does not permit a person required to provide a DNA sample to challenge the requirement that the person provide a DNA sample at a later date.

(d) A person's failure to provide a DNA sample is grounds for revocation of the person's probation, community corrections placement, or other conditional release.

SECTION 23. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.2. As a condition of probation for an a sex offender (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5), the court shall:**

- (1) require the sex offender to register with the ~~sheriff (or the police chief of a consolidated city)~~ local law enforcement authority under ~~IC 5-2-12-5~~ IC 11-8-8; and**
- (2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the sex offender obtains written approval from the court.**

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

SECTION 24. IC 35-38-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:**

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.**
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.**

- 1 (3) Attend or reside in a facility established for the instruction,
2 recreation, or residence of persons on probation.
- 3 (4) Support the person's dependents and meet other family
4 responsibilities.
- 5 (5) Make restitution or reparation to the victim of the crime for
6 damage or injury that was sustained by the victim. When restitution
7 or reparation is a condition of probation, the court shall fix the
8 amount, which may not exceed an amount the person can or will be
9 able to pay, and shall fix the manner of performance.
- 10 (6) Execute a repayment agreement with the appropriate
11 governmental entity to repay the full amount of public relief or
12 assistance wrongfully received, and make repayments according to
13 a repayment schedule set out in the agreement.
- 14 (7) Pay a fine authorized by IC 35-50.
- 15 (8) Refrain from possessing a firearm or other deadly weapon
16 unless granted written permission by the court or the person's
17 probation officer.
- 18 (9) Report to a probation officer at reasonable times as directed by
19 the court or the probation officer.
- 20 (10) Permit the person's probation officer to visit the person at
21 reasonable times at the person's home or elsewhere.
- 22 (11) Remain within the jurisdiction of the court, unless granted
23 permission to leave by the court or by the person's probation
24 officer.
- 25 (12) Answer all reasonable inquiries by the court or the person's
26 probation officer and promptly notify the court or probation officer
27 of any change in address or employment.
- 28 (13) Perform uncompensated work that benefits the community.
- 29 (14) Satisfy other conditions reasonably related to the person's
30 rehabilitation.
- 31 (15) Undergo home detention under IC 35-38-2.5.
- 32 (16) Undergo a laboratory test or series of tests approved by the
33 state department of health to detect and confirm the presence of the
34 human immunodeficiency virus (HIV) antigen or antibodies to the
35 human immunodeficiency virus (HIV), if:
 - 36 (A) the person had been convicted of a sex crime listed in
37 IC 35-38-1-7.1(e) and the crime created an epidemiologically
38 demonstrated risk of transmission of the human
39 immunodeficiency virus (HIV) as described in
40 IC 35-38-1-7.1(b)(8); or
 - 41 (B) the person had been convicted of an offense related to a
42 controlled substance listed in IC 35-38-1-7.1(f) and the offense
43 involved the conditions described in IC 35-38-1-7.1(b)(9)(A).
- 44 (17) Refrain from any direct or indirect contact with an individual.
- 45 (18) Execute a repayment agreement with the appropriate
46 governmental entity or with a person for reasonable costs incurred
47 because of the taking, detention, or return of a missing child (as
48 defined in IC 10-13-5-4).
- 49 (19) Periodically undergo a laboratory chemical test (as defined in

IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

- (1) convicted of an offense described in IC 10-13-6-10;**
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and**
- (3) whose sentence does not involve a commitment to the department of correction;**

to provide a DNA sample as a condition of probation.

SECTION 25. IC 35-38-2-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.4. As a condition of probation, the court may require ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~) IC 11-8-8-5) to:

- (1) participate in a treatment program for sex offenders approved by the court; and
- (2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:
 - (A) receives the court's approval; or
 - (B) successfully completes the treatment program referred to in subdivision (1).

SECTION 26. IC 35-38-2-2.5, AS AMENDED BY SEA 246-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- (10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

- (1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:
 - (A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or
 - (B) before the offender's release from incarceration if the

1 offender will be placed on probation after completing a term of
2 incarceration; or

3 (2) who will be placed on parole shall provide the parole board with
4 the address where the offender intends to reside during the period
5 of parole.

6 (e) An offender, while on probation or parole, may not establish a
7 **new** residence within one (1) mile of the residence of the victim of the
8 offender's sex offense **unless the offender first obtains a waiver from**
9 **the:**

10 (1) **court, if the offender is placed on probation; or**

11 (2) **parole board, if the offender is placed on parole;**

12 **for the change of address under subsection (f).**

13 (f) **The court or parole board may waive the requirement set**
14 **forth in subsection (c) only if the court or parole board, at a**
15 **hearing at which the offender is present and of which the**
16 **prosecuting attorney has been notified, determines that:**

17 (1) **the offender has successfully completed a sex offender**
18 **treatment program during the period of probation or parole;**

19 (2) **the offender is in compliance with all terms of the offender's**
20 **probation or parole; and**

21 (3) **good cause exists to allow the offender to reside within one**
22 **(1) mile of the residence of the victim of the offender's sex**
23 **offense.**

24 **However, the court or parole board may not grant a waiver under**
25 **this subsection if the offender is a sexually violent predator under**
26 **IC 35-38-1-7.5.**

27 (g) **If the court or parole board grants a waiver under subsection**
28 **(f), the court or parole board shall state in writing the reasons for**
29 **granting the waiver. The court's written statement of its reasons**
30 **shall be incorporated into the record.**

31 ~~(f)~~ (h) **The address of the victim of the offender's sex offense is**
32 **confidential even if the court or parole board grants a waiver under**
33 **subsection (f).**

34 SECTION 27. IC 35-38-2-2.6 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2006]: **Sec. 2.6. (a) As a condition of**
37 **remaining on probation or parole after a conviction for stalking**
38 **(IC 35-45-10-5), a court may prohibit a person from residing**
39 **within one thousand (1,000) feet of the residence of the victim of the**
40 **stalking for a period that does not exceed five (5) years.**

41 (b) **A person:**

42 (1) **who will be placed on probation shall provide the**
43 **sentencing court and the probation department with the**
44 **address where the person intends to reside during the period**
45 **of probation:**

46 (A) **at the time of sentencing if the person will be placed on**
47 **probation without first being incarcerated; or**

48 (B) **before the person's release from incarceration if the**
49 **person will be placed on probation after completing a term**

1 of incarceration; or
 2 (2) who will be placed on parole shall provide the parole board
 3 with the address where the person intends to reside during the
 4 period of parole.

5 (c) A person, while on probation or parole, may not reside within
 6 one thousand (1,000) feet of the residence of the victim of the
 7 stalking unless the person first obtains a waiver under subsection
 8 (d) from the:

- 9 (1) court, if the person is placed on probation; or
 10 (2) parole board, if the person is placed on parole.

11 (d) The court or parole board may waive the requirement set
 12 forth in subsection (c) only if the court or parole board, at a
 13 hearing at which the person is present and of which the prosecuting
 14 attorney has been notified, determines that:

- 15 (1) the person is in compliance with all terms of the person's
 16 probation or parole; and
 17 (2) good cause exists to allow the person to reside within one
 18 thousand (1,000) feet of the residence of the victim of the
 19 stalking.

20 (e) If the court or parole board grants a waiver under subsection
 21 (d), the court or parole board shall state in writing the reasons for
 22 granting the waiver. The court's written statement of its reasons
 23 shall be incorporated into the record.

24 (f) The address of the victim of the stalking is confidential even
 25 if the court or parole board grants a waiver under subsection (d).

26 SECTION 28. IC 35-38-2.5-6 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. An order for home
 28 detention of an offender under section 5 of this chapter must include the
 29 following:

- 30 (1) A requirement that the offender be confined to the offender's
 31 home at all times except when the offender is:
 32 (A) working at employment approved by the court or traveling to
 33 or from approved employment;
 34 (B) unemployed and seeking employment approved for the
 35 offender by the court;
 36 (C) undergoing medical, psychiatric, mental health treatment,
 37 counseling, or other treatment programs approved for the
 38 offender by the court;
 39 (D) attending an educational institution or a program approved
 40 for the offender by the court;
 41 (E) attending a regularly scheduled religious service at a place of
 42 worship; or
 43 (F) participating in a community work release or community
 44 restitution or service program approved for the offender by the
 45 court.
 46 (2) Notice to the offender that violation of the order for home
 47 detention may subject the offender to prosecution for the crime of
 48 escape under IC 35-44-3-5.
 49 (3) A requirement that the offender abide by a schedule prepared by

the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.

(4) A requirement that the offender is not to commit another crime during the period of home detention ordered by the court.

(5) A requirement that the offender obtain approval from the probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).

(6) A requirement that the offender maintain:

(A) a working telephone in the offender's home; and

(B) if ordered by the court, a monitoring device in the offender's home or on the offender's person, or both.

(7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.

(8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.

(9) A requirement that an offender:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

provide a DNA sample.

SECTION 29. IC 35-38-2.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The court may, at the time of sentencing, suspend the sentence and order a person to be placed in a community corrections program as an alternative to commitment to the department of correction. The court may impose reasonable terms on the placement. **A court shall require a person:**

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a term of placement.

(b) Placement in a community corrections program under this chapter is subject to the availability of residential beds or home detention units in a community corrections program.

(c) A person placed under this chapter is responsible for the person's own medical care while in the placement program.

(d) Placement under this chapter is subject to the community corrections program receiving a written presentence report or

memorandum from a county probation agency.

SECTION 30. IC 35-41-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

(1) within five (5) years after the commission of the offense, in the case of a Class B, Class C, or Class D felony; or

(2) within two (2) years after the commission of the offense, in the case of a misdemeanor.

(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

(1) first discovers ~~the identity of evidence sufficient to charge~~ the offender with **the offense through** DNA (deoxyribonucleic acid) ~~evidence; analysis; or~~

(2) could have discovered ~~the identity of evidence sufficient to charge~~ the offender with **the offense through** DNA (deoxyribonucleic acid) ~~evidence analysis~~ by the exercise of due diligence.

~~However, for a Class B or Class C felony in which the state first discovered the identity of an offender with DNA (deoxyribonucleic acid) evidence after the time otherwise allowed for prosecution and before July 1, 2001, the one (1) year period provided in this subsection is extended to July 1, 2002.~~

(c) A prosecution for a Class A felony may be commenced at any time.

(d) A prosecution for murder may be commenced:

(1) at any time; and

(2) regardless of the amount of time that passes between:

(A) the date a person allegedly commits the elements of murder; and

(B) the date the alleged victim of the murder dies.

(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

(1) IC 35-42-4-3(a) (Child molesting).

(2) IC 35-42-4-5 (Vicarious sexual gratification).

(3) IC 35-42-4-6 (Child solicitation).

(4) IC 35-42-4-7 (Child seduction).

(5) IC 35-46-1-3 (Incest).

(f) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

(g) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

(h) The period within which a prosecution must be commenced does not include any period in which:

(1) the accused person is not usually and publicly resident in Indiana or so conceals himself **or herself** that process cannot be served; ~~on him;~~

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge ~~him~~ **the person** with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

(i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

(j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 31. IC 35-42-4-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10. (a) As used in this section, "sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.**

(b) A sexually violent predator who knowingly or intentionally works for compensation or as a volunteer:

(1) on school property;

(2) at a youth program center; or

(3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under this chapter.

SECTION 32. IC 35-42-4-11, AS ADDED BY SEA 246-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11. (a) As used in this section, "offender against children" means a person required to register as ~~an~~ a sex offender under ~~IC 5-2-12~~ IC 11-8-8 who has been:**

(1) found by a court to be a sexually violent predator under

(A) IC 35-38-1-7.5; or

(B) the law of another jurisdiction that identifies the person as being likely to repeatedly commit a sex offense; or

(2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Child solicitation (IC 35-42-4-6).

(D) Child seduction (IC 35-42-4-7).

(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(F) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (E).

(b) As used in this section, "reside" means to spend more than two (2) nights in a residence in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

SECTION 33. IC 35-43-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

(i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);

(ii) the property damaged was a moving motor vehicle;

(iii) the property damaged ~~or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3)~~ **contained data relating to a person required to register as a sex offender under IC 11-8-8** and the person is not a sex offender or was not required to register as a sex offender;

(iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;

(v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;

(vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or

(vii) the property damage or defacement was caused by paint

- 1 or other markings; and
- 2 (B) a Class D felony if:
- 3 (i) the pecuniary loss is at least two thousand five hundred
- 4 dollars (\$2,500);
- 5 (ii) the damage causes a substantial interruption or impairment
- 6 of utility service rendered to the public;
- 7 (iii) the damage is to a public record;
- 8 (iv) the property damaged ~~or defaced was a copy of the sex and~~
- 9 ~~violent offender directory (IC 5-2-6-3)~~ **contained data**
- 10 **relating to a person required to register as a sex offender**
- 11 **under IC 11-8-8** and the person is a sex offender or was
- 12 required to register as a sex offender;
- 13 (v) the damage causes substantial interruption or impairment
- 14 of work conducted in a scientific research facility;
- 15 (vi) the damage is to a law enforcement animal (as defined in
- 16 IC 35-46-3-4.5); or
- 17 (vii) the damage causes substantial interruption or impairment
- 18 of work conducted in a food processing facility.
- 19 (b) A person who recklessly, knowingly, or intentionally damages:
- 20 (1) a structure used for religious worship;
- 21 (2) a school or community center;
- 22 (3) the grounds:
- 23 (A) adjacent to; and
- 24 (B) owned or rented in common with;
- 25 a structure or facility identified in subdivision (1) or (2); or
- 26 (4) personal property contained in a structure or located at a facility
- 27 identified in subdivision (1) or (2);
- 28 without the consent of the owner, possessor, or occupant of the property
- 29 that is damaged, commits institutional criminal mischief, a Class A
- 30 misdemeanor. However, the offense is a Class D felony if the pecuniary
- 31 loss is at least two hundred fifty dollars (\$250) but less than two
- 32 thousand five hundred dollars (\$2,500), and a Class C felony if the
- 33 pecuniary loss is at least two thousand five hundred dollars (\$2,500).
- 34 (c) If a person is convicted of an offense under this section that
- 35 involves the use of graffiti, the court may, in addition to any other
- 36 penalty, order that the person's operator's license be suspended or
- 37 invalidated by the bureau of motor vehicles for not more than one (1)
- 38 year.
- 39 (d) The court may rescind an order for suspension or invalidation
- 40 under subsection (c) and allow the person to receive a license or permit
- 41 before the period of suspension or invalidation ends if the court
- 42 determines that:
- 43 (1) the person has removed or painted over the graffiti or has made
- 44 other suitable restitution; and
- 45 (2) the person who owns the property damaged or defaced by the
- 46 criminal mischief or institutional criminal mischief is satisfied with
- 47 the removal, painting, or other restitution performed by the person.
- 48 SECTION 34. IC 35-44-3-9.3 IS ADDED TO THE INDIANA
- 49 CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2006]: **Sec. 9.3. (a)** As used in this section, "contraband" means the following:

- (1) Alcohol.
- (2) A cigarette or tobacco product.
- (3) A controlled substance.
- (4) An item that may be used as a weapon.

(b) As used in this section, "inmate outside a facility" means a person who is incarcerated in a penal facility or detained in a juvenile facility on a full-time basis as the result of a conviction or a juvenile adjudication but who has been or is being transported to another location to participate in or prepare for a judicial proceeding. The term does not include the following:

- (1) An adult or juvenile pretrial detainee.
- (2) A person serving an intermittent term of imprisonment or detention.
- (3) A person serving a term of imprisonment or detention as:
 - (A) a condition of probation;
 - (B) a condition of a community corrections program;
 - (C) part of a community transition program;
 - (D) part of a reentry court program;
 - (E) part of a work release program; or
 - (F) part of a community based program that is similar to a program described in clauses (A) through (E).
- (4) A person who has escaped from incarceration or walked away from secure detention.
- (5) A person on temporary leave (as described in IC 11-10-9) or temporary release (as described in IC 11-10-10).

(c) A person who, with the intent of providing contraband to an inmate outside a facility:

- (1) delivers contraband to an inmate outside a facility; or
- (2) places contraband in a location where an inmate outside a facility could obtain the contraband;

commits trafficking with an inmate outside a facility, a Class A misdemeanor. However, the offense is a Class D felony if the contraband is an item described in subsection (a)(3), and a Class C felony if the contraband is an item described in subsection (a)(4).

SECTION 35. IC 35-44-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13. (a)** A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a sex crime described in IC 11-8-8-5 that was committed by the person commits a Class D felony if, at the time of the violation:

- (1) the person's lifetime parole has been revoked two (2) or more times; or
- (2) the person has completed the person's sentence, including any credit time the person may have earned.

(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section.

SECTION 36. IC 35-50-2-2, AS AMENDED BY P.L.213-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC

35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(R) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or

(S) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of ~~an~~ a sex offender's (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) sentence that is suspendible under subsection (b), the court shall place the sex offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 37. IC 35-50-2-14, AS AMENDED BY P.L.71-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The state may seek to have a person sentenced as a repeat sexual offender for a sex offense under

IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3**, by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated one (1) prior unrelated felony conviction for a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3**.

(b) After a person has been convicted and sentenced for a felony committed after sentencing for a prior unrelated felony conviction under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3**, the person has accumulated one (1) prior unrelated felony conviction. However, a conviction does not count for purposes of this subsection, if:

(1) it has been set aside; or

(2) it is one for which the person has been pardoned.

(c) If the person was convicted of the offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(d) A person is a repeat sexual offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated one (1) prior unrelated felony conviction under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or had accumulated one (1) prior unrelated conviction for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3**.

(e) The court may sentence a person found to be a repeat sexual offender to an additional fixed term that is the advisory sentence for the underlying offense. However, the additional sentence may not exceed ten (10) years.

SECTION 38. IC 35-50-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (d) **or (e)**, when a person imprisoned for a felony completes ~~his~~ **the person's** fixed term of imprisonment, less the credit time ~~he~~ **the person** has earned with respect to that term, ~~he~~ **the person** shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole board;

(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or

(3) released to the committing court if ~~his~~ **the** sentence included a period of probation.

(b) ~~Except as provided in subsection (d),~~ **This subsection does not**

1 **apply to a person described in subsection (d), (e), or (f).** A person
 2 released on parole remains on parole from the date of ~~his~~ release until
 3 ~~his~~ **the person's** fixed term expires, unless ~~his~~ **the person's** parole is
 4 revoked or ~~he~~ **the person** is discharged from that term by the parole
 5 board. In any event, if ~~his~~ **the person's** parole is not revoked, the parole
 6 board shall discharge ~~him~~ **the person** after the period set under
 7 subsection (a) or the expiration of the person's fixed term, whichever is
 8 shorter.

9 (c) A person whose parole is revoked shall be imprisoned for **all or**
 10 **part of** the remainder of ~~his~~ **the person's** fixed term. However, ~~he~~ **the**
 11 **person** shall again be released on parole when ~~he~~ **the person** completes
 12 that remainder, less the credit time ~~he~~ **the person** has earned since the
 13 revocation. The parole board may reinstate ~~him~~ **the person** on parole
 14 at any time after the revocation.

15 (d) **This subsection does not apply to a person who is a sexually**
 16 **violent predator under IC 35-38-1-7.5.** When ~~an~~ **offender a sex**
 17 **offender** (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-5**) completes the sex
 18 offender's fixed term of imprisonment, less credit time earned with
 19 respect to that term, the ~~sex~~ **offender** shall be placed on parole for not
 20 more than ten (10) years.

21 (e) **This subsection applies to a person who is a sexually violent**
 22 **predator under IC 35-38-1-7.5. When a sexually violent predator**
 23 **completes the person's fixed term of imprisonment, less credit time**
 24 **earned with respect to that term, the person shall be placed on**
 25 **parole for the remainder of the person's life.**

26 (f) **This subsection applies to a parolee in another jurisdiction**
 27 **who is a sexually violent predator under IC 35-38-1-7.5 and whose**
 28 **parole supervision is transferred to Indiana from another**
 29 **jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate**
 30 **Compact for Out-of-State Probationers and Parolees) and rules**
 31 **adopted under Article VII (d)(8) of the Interstate Compact for**
 32 **Adult Offender Supervision (IC 11-13-4.5), a parolee who is a**
 33 **sexually violent predator and whose parole supervision is**
 34 **transferred to Indiana is subject to the same conditions of parole**
 35 **as a sexually violent predator convicted in Indiana, including:**

- 36 (1) **lifetime parole (as described in subsection (e)); and**
- 37 (2) **the requirement that the person wear a monitoring device**
 38 **(as described in IC 35-38-2.5-3) that can transmit information**
 39 **twenty-four (24) hours each day regarding a person's precise**
 40 **location, if applicable.**

41 (g) **If a person being supervised on lifetime parole as described**
 42 **in subsection (e) is also required to be supervised by a court, a**
 43 **probation department, a community corrections program, a**
 44 **community transition program, or another similar program upon**
 45 **the person's release from imprisonment, the parole board may:**

- 46 (1) **supervise the person while the person is being supervised**
 47 **by the other supervising agency; or**
- 48 (2) **permit the other supervising agency to exercise all or part**
 49 **of the parole board's supervisory responsibility during the**

period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole.

SECTION 39. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time ~~he~~ **the person** has earned for any of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.

(3) A violation of one (1) or more rules or conditions of a community transition program.

(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

(5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.

(6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine ~~his~~ **the person's** guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive ~~his~~ **the person's** right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 40. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain ~~a~~ **an Indiana** sex offender web site, known as the Indiana ~~sheriffs'~~ sex offender registry, to inform the

general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least ~~every seven (7) days~~; **daily**.

(b) The **Indiana** sex offender web site must include the following information:

(1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.

(2) The home address of every sex offender.

(3) The information required ~~to be included in the sex offender directory (IC 5-2-12-6)~~; **under IC 11-8-8-8**.

(c) Every time a sex offender ~~submits a new registration form to the sheriff registers~~, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the **Indiana** sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the **Indiana** sex offender web site.

(e) The **Indiana** sex offender web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 41. IC 33-40-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A supplemental public defender services fund is established in each county. The fund consists of amounts deposited under:

(1) section 9 of this chapter; **and**

(2) **IC 35-33-8-3.3**.

SECTION 42. IC 35-33-8-3.2, AS AMENDED BY P.L.10-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.2. (a) A court may admit a defendant to bail and

1 impose any of the following conditions to assure the defendant's
 2 appearance at any stage of the legal proceedings, or, upon a showing of
 3 clear and convincing evidence that the defendant poses a risk of
 4 physical danger to another person or the community, to assure the
 5 public's physical safety:

6 (1) Require the defendant to:

- 7 (A) execute a bail bond with sufficient solvent sureties;
- 8 (B) deposit cash or securities in an amount equal to the bail;
- 9 (C) execute a bond secured by real estate in the county, where
 10 thirty-three hundredths (0.33) of the true tax value less
 11 encumbrances is at least equal to the amount of the bail; or
 12 (D) post a real estate bond.

13 The defendant must also pay the fee required by subsection (d).

14 (2) Require the defendant to execute a bail bond by depositing cash
 15 or securities with the clerk of the court in an amount not less than
 16 ten percent (10%) of the bail. If the defendant is convicted, the
 17 court may retain all or a part of the cash or securities to pay fines,
 18 costs, fees, and restitution, if ordered by the court. A portion of the
 19 deposit, not to exceed ten percent (10%) of the monetary value of
 20 the deposit or fifty dollars (\$50), whichever is the lesser amount,
 21 may be retained as an administrative fee. The clerk shall also retain
 22 from the deposit under this subdivision the following:

- 23 (A) Fines, costs, fees, and restitution as ordered by the court.
- 24 (B) Publicly paid costs of representation that shall be disposed of
 25 in accordance with subsection (b).
- 26 (C) In the event of the posting of a real estate bond, the bond
 27 shall be used only to insure the presence of the defendant at any
 28 stage of the legal proceedings, but shall not be foreclosed for the
 29 payment of fines, costs, fees, or restitution.
- 30 (D) The fee required by subsection (d).

31 The individual posting bail for the defendant or the defendant
 32 admitted to bail under this subdivision must be notified by the
 33 sheriff, court, or clerk that the defendant's deposit may be forfeited
 34 under section 7 of this chapter or retained under subsection (b).

35 (3) Impose reasonable restrictions on the activities, movements,
 36 associations, and residence of the defendant during the period of
 37 release.

38 (4) Require the defendant to refrain from any direct or indirect
 39 contact with an individual.

40 (5) Place the defendant under the reasonable supervision of a
 41 probation officer, **pretrial services agency**, or other appropriate
 42 public official. **If the court places the defendant under the**
 43 **supervision of a probation officer or pretrial services agency,**
 44 **the court shall determine whether the defendant must pay the**
 45 **pretrial services fee under section 3.3 of this chapter.**

46 (6) Release the defendant into the care of a qualified person or
 47 organization responsible for supervising the defendant and assisting
 48 the defendant in appearing in court. The supervisor shall maintain
 49 reasonable contact with the defendant in order to assist the

defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars (\$5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in ~~the~~ the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 43. IC 35-33-8-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3.3. (a) This section does not apply to a defendant charged in a city or town court.**

(b) If a defendant who has a prior unrelated conviction for any offense is charged with a new offense and placed under the

supervision of a probation officer or pretrial services agency, the court may order the defendant to pay the pretrial services fee prescribed under subsection (e) if:

- (1) the defendant has the financial ability to pay the fee; and
- (2) the court finds by clear and convincing evidence that supervision by a probation officer or pretrial services agency is necessary to ensure the:

- (A) defendant's appearance in court; or

- (B) physical safety of the community or of another person.

(c) If a clerk of a court collects a pretrial services fee, the clerk may retain not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee. The clerk shall deposit amounts retained under this subsection in the clerk's record perpetuation fund established under IC 33-37-5-2.

(d) If a clerk of a court collects a pretrial services fee from a defendant, upon request of the county auditor, the clerk shall transfer not more than three percent (3%) of the fee to the county auditor for deposit in the county general fund.

(e) The court may order a defendant who is supervised by a probation officer or pretrial services agency and charged with an offense to pay:

- (1) an initial pretrial services fee of at least twenty-five dollars (\$25) and not more than one hundred dollars (\$100);

- (2) a monthly pretrial services fee of at least fifteen dollars (\$15) and not more than thirty dollars (\$30) for each month the defendant remains on bail and under the supervision of a probation officer or pretrial services agency; and

- (3) an administrative fee of one hundred dollars (\$100);

to the probation department, pretrial services agency, or clerk of the court if the defendant meets the conditions set forth in subsection (b).

(f) The probation department, pretrial services agency, or clerk of the court shall collect the administrative fee under subsection (e)(3) before collecting any other fee under subsection (e). Except for the money described in subsections (c) and (d), all money collected by the probation department, pretrial services agency, or clerk of the court under this section shall be transferred to the county treasurer, who shall deposit fifty percent (50%) of the money into the county supplemental adult probation services fund and fifty percent (50%) of the money into the county supplemental public defender services fund (IC 33-40-3-1). The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

- (1) to the county, superior, or circuit court of the county that provides probation services or pretrial services to adults to supplement adult probation services or pretrial services; and

- (2) to supplement the salary of:

- (A) an employee of a pretrial services agency; or

- (B) a probation officer in accordance with the schedule

adopted by the county fiscal body under IC 36-2-16.5.

(g) The county supplemental adult probation services fund may be used only to supplement adult probation services or pretrial services and to supplement salaries for probation officers or employees of a pretrial services agency. A supplemental probation services fund may not be used to replace other probation services or pretrial services funding. Any money remaining in the fund at the end of a fiscal year does not revert to any other fund but continues in the county supplemental adult probation services fund.

(h) A defendant who is charged with more than one (1) offense and who is supervised by the probation department or pretrial services agency as a condition of bail may not be required to pay more than:

(1) one (1) initial pretrial services fee; and

(2) one (1) monthly pretrial services fee per month.

(i) A probation department or pretrial services agency may petition a court to:

(1) impose a pretrial services fee on a defendant; or

(2) increase a defendant's pretrial services fee;

if the financial ability of the defendant to pay a pretrial services fee changes while the defendant is on bail and supervised by a probation officer or pretrial services agency.

(j) An order to pay a pretrial services fee under this section:

(1) is a judgment lien that, upon the defendant's conviction:

(A) attaches to the property of the defendant;

(B) may be perfected;

(C) may be enforced to satisfy any payment that is delinquent under this section; and

(D) expires;

in the same manner as a judgment lien created in a civil proceeding;

(2) is not discharged by the disposition of charges against the defendant or by the completion of a sentence, if any, imposed on the defendant;

(3) is not discharged by the liquidation of a defendant's estate by a receiver under IC 32-30-5; and

(4) is immediately terminated if a defendant is acquitted or if charges against the defendant are dropped.

(k) If a court orders a defendant to pay a pretrial services fee, the court may, upon the defendant's conviction, enforce the order by garnishing the wages, salary, and other income earned by the defendant.

(l) If a defendant is delinquent in paying the defendant's pretrial services fee and has never been issued a driver's license or permit, upon the defendant's conviction, the court may order the bureau of motor vehicles to not issue a driver's license or permit to the defendant until the defendant has paid the defendant's delinquent pretrial services fee. If a defendant is delinquent in paying the defendant's pretrial services fee and the defendant's driver's

license or permit has been suspended or revoked, the court may order the bureau of motor vehicles to not reinstate the defendant's driver's license or permit until the defendant has paid the defendant's delinquent pretrial services fee.

(m) In addition to other methods of payment allowed by law, a probation department or pretrial services agency may accept payment of a pretrial services fee by credit card (as defined in IC 14-11-1-7(a)). The liability for payment is not discharged until the probation department or pretrial services agency receives payment or credit from the institution responsible for making the payment or credit.

(n) The probation department or pretrial services agency may contract with a bank or credit card vendor for acceptance of a bank or credit card. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or pretrial services agency, or charged directly to the account of the probation department or pretrial services agency, the probation department or pretrial services agency may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the fee or fees the defendant may be required to pay under subsection (e).

(o) The probation department or pretrial services agency shall forward a credit card service fee collected under subsection (n) to the county treasurer in accordance with subsection (f). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 44. IC 5-2-1-9, AS AMENDED BY P.L.2-2005, SECTION 12, P.L.52-2005, SECTION 6, P.L.170-2005, SECTION 8, AND P.L.227-2005, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. ~~Such~~ The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, ~~the northwest Indiana~~ law enforcement training ~~center~~, centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity

1 awareness that must be required for each person accepted for
2 training at a law enforcement training school or academy.

3 (5) Minimum qualifications for instructors at approved law
4 enforcement training schools.

5 (6) Minimum basic training requirements which law enforcement
6 officers appointed to probationary terms shall complete before
7 being eligible for continued or permanent employment.

8 (7) Minimum basic training requirements which law enforcement
9 officers *not appointed for probationary terms but* appointed on
10 other than a permanent basis shall complete in order to be eligible
11 for continued employment or permanent appointment.

12 (8) Minimum basic training requirements which law enforcement
13 officers appointed on a permanent basis shall complete in order to
14 be eligible for continued employment.

15 (9) Minimum basic training requirements for each person accepted
16 for training at a law enforcement training school or academy that
17 include six (6) hours of training in interacting with persons with
18 mental illness, addictive disorders, mental retardation, and
19 developmental disabilities, to be provided by persons approved by
20 the secretary of family and social services and the *law enforcement*
21 *training* board.

22 **(10) Minimum standards for a course of study on human and**
23 **sexual trafficking that must be required for each person**
24 **accepted for training at a law enforcement training school or**
25 **academy and for inservice training programs for law**
26 **enforcement officers. The course must cover the following**
27 **topics:**

28 **(A) Examination of the human and sexual trafficking laws**
29 **(IC 35-42-3.5).**

30 **(B) Identification of human and sexual trafficking.**

31 **(C) Communicating with traumatized persons.**

32 **(D) Therapeutically appropriate investigative techniques.**

33 **(E) Collaboration with federal law enforcement officials.**

34 **(F) Rights of and protections afforded to victims.**

35 **(G) Providing documentation that satisfies the Declaration**
36 **of Law Enforcement Officer for Victim of Trafficking in**
37 **Persons (Form I-914, Supplement B) requirements**
38 **established under federal law.**

39 **(H) The availability of community resources to assist human**
40 **and sexual trafficking victims.**

41 (b) Except as provided in subsection (l), a law enforcement officer
42 appointed after July 5, 1972, and before July 1, 1993, may not enforce
43 the laws or ordinances of the state or any political subdivision unless the
44 officer has, within one (1) year from the date of appointment,
45 successfully completed the minimum basic training requirements
46 established under this chapter by the board. If a person fails to
47 successfully complete the basic training requirements within one (1)
48 year from the date of employment, the officer may not perform any of
49 the duties of a law enforcement officer involving control or direction of

members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which ~~in such cases~~ shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), ~~and~~ (l), ~~and (n)~~, ~~(q)~~, a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy ~~at the southwest Indiana law enforcement training academy under section 10.5 of this chapter~~, or at ~~the northwest Indiana~~ a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) *This subsection does not apply to a gaming agent employed as a law enforcement officer by the Indiana gaming commission.* Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, *the lawful use of force, and firearm qualification: the operation of an emergency vehicle.* The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of *at least* forty (40) hours of course work. The board may prepare ~~a the classroom part of the~~ pre-basic course ~~on videotape that must be used~~ using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30,

1993, a law enforcement officer who has satisfactorily completed ~~the~~ basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes ~~a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs; the mandatory inservice training requirements established by rules adopted by the board.~~ Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the ~~law enforcement training board, In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis.~~ **and training concerning human and sexual trafficking.** The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to ~~any~~ *either* of the following:

- (1) An emergency situation.
- (2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

- (1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.
- (2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.
- (3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ not more than one (1) marshal and two (2) deputies.
- (4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.
- (5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish ~~a police chief~~ *an* executive training program. The *executive training* program must include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

~~(6) Firearm policies.~~

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the ~~police chief~~ executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the ~~police chief~~ executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow ~~the police chief to complete completion of~~ the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered ~~to the police chief~~ after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until ~~the police chief has completed the police chief completion of the~~ executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; ~~and~~

(2) the police chief of any town having a metropolitan police department; ~~and~~

(3) ~~the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.~~

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the ~~police chief~~ executive training program.

(l) ~~An A fire~~ investigator in the ~~arson division of the office of the state fire marshal division of fire and building safety~~ appointed

~~(1) before January 1, 1994, is not required; or~~

~~(2) after December 31, 1993, is required~~

to comply with the basic training standards established under this ~~section: chapter.~~

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) worked as a full-time law enforcement officer for at least one (1) year before the officer is hired under subdivision (1);

(3) has not been employed as a law enforcement officer for at

1 least two (2) years and less than six (6) years before the officer
2 is hired under subdivision (1) due to the officer's resignation or
3 retirement; and

4 (4) completed a basic training course certified by the board
5 before the officer is hired under subdivision (1).

6 (o) An officer to whom subsection (n) applies must successfully
7 complete the refresher course described in subsection (n) not later
8 than six (6) months after the officer's date of hire, or the officer loses
9 the officer's powers of:

10 (1) arrest;

11 (2) search; and

12 (3) seizure.

13 (p) A law enforcement officer who:

14 (1) has completed a basic training course certified by the board;
15 and

16 (2) has not been employed as a law enforcement officer in the six
17 (6) years before the officer is hired as a law enforcement officer;
18 is not eligible to attend the refresher course described in subsection
19 (n) and must repeat the full basic training course to regain law
20 enforcement powers.

21 ~~(n)~~ (q) This subsection applies only to a gaming agent employed as
22 a law enforcement officer by the Indiana gaming commission. A
23 gaming agent appointed after June 30, 2005, may exercise the police
24 powers described in subsection (d) if:

25 (1) the agent successfully completes the pre-basic course
26 established in subsection (f); and

27 (2) the agent successfully completes any other training courses
28 established by the Indiana gaming commission in conjunction
29 with the board.

30 SECTION 45. IC 12-13-5-2, AS AMENDED BY P.L.234-2005,
31 SECTION 21, IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2006]: Sec. 2. The division shall administer the
33 following:

34 (1) Any sexual offense services.

35 (2) A child development associate scholarship program.

36 (3) Any school age dependent care program.

37 (4) Migrant day care services.

38 (5) Prevention services to high risk youth.

39 (6) Any commodities program.

40 (7) The migrant nutrition program.

41 (8) Any emergency shelter programs.

42 (9) Any weatherization programs.

43 (10) The Housing Assistance Act of 1937 (42 U.S.C. 1437).

44 (11) The home visitation and social services program.

45 (12) The educational consultants program.

46 (13) Community restitution or service programs.

47 (14) The crisis nursery program.

48 (15) Energy assistance programs.

49 (16) Domestic violence programs.

- (17) Social services programs.
- (18) Assistance to migrants and seasonal farmworkers.
- (19) The step ahead comprehensive early childhood grant program.
- (20) Assistance to victims of human and sexual trafficking offenses as provided in IC 35-42-3.5-4, as appropriate.**
- ~~(20)~~ **(21)** Any other program:
 - (A) designated by the general assembly; or
 - (B) administered by the federal government under grants consistent with the duties of the division.

SECTION 46. IC 31-9-2-29.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnapping or confinement under IC 35-42-3.
- (4) A sex offense under IC 35-42-4.
- (5) Robbery under IC 35-42-5.
- (6) Arson or mischief under IC 35-43-1.
- (7) Burglary or trespass under IC 35-43-2.
- (8) Disorderly conduct under IC 35-45-1.
- (9) Intimidation or harassment under IC 35-45-2.
- (10) Voyeurism under IC 35-45-4.
- (11) Stalking under IC 35-45-10.
- (12) An offense against the family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.

(13) Human and sexual trafficking crimes under IC 35-42-3.5.

SECTION 47. IC 35-32-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person who commits the offense of:

- (1) kidnapping; or**
- (2) criminal confinement;**
- (3) human trafficking;**
- (4) promotion of human trafficking; or**
- (5) sexual trafficking of a minor;**

may be tried in a county in which the victim has traveled or has been confined during the course of the offense.

(b) A person who commits the offense of criminal confinement or interference with custody may be tried in a county in which the child who was removed, taken, concealed, or detained in violation of a child custody order:

- (1) was a legal resident at the time of the taking, concealment, or detention;
- (2) was taken, detained, or concealed; or
- (3) was found.

SECTION 48. IC 35-37-4-6, AS AMENDED BY P.L.2-2005, SECTION 120, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2006]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):

- (1) Sex crimes (IC 35-42-4).
- (2) Battery upon a child (IC 35-42-2-1(a)(2)(B)).
- (3) Kidnapping and confinement (IC 35-42-3).
- (4) Incest (IC 35-46-1-3).
- (5) Neglect of a dependent (IC 35-46-1-4).
- (6) Human and sexual trafficking crimes (IC 35-42-3.5).**

~~(6)~~ (7) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through ~~(5)~~: **(6)**.

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

- (1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).
- (2) A sex crime (IC 35-42-4).
- (3) Battery (IC 35-42-2-1).
- (4) Kidnapping, confinement, or interference with custody (IC 35-42-3).
- (5) Home improvement fraud (IC 35-43-6).
- (6) Fraud (IC 35-43-5).
- (7) Identity deception (IC 35-43-5-3.5).
- (8) Theft (IC 35-43-4-2).
- (9) Conversion (IC 35-43-4-3).
- (10) Neglect of a dependent (IC 35-46-1-4).
- (11) Human and sexual trafficking crimes (IC 35-42-3.5).**

(c) As used in this section, "protected person" means:

- (1) a child who is less than fourteen (14) years of age;
- (2) a mentally disabled individual who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:
 - (A) is manifested before the individual is eighteen (18) years of age;
 - (B) is likely to continue indefinitely;
 - (C) constitutes a substantial impairment of the individual's ability to function normally in society; and
 - (D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or
- (3) an individual who is:
 - (A) at least eighteen (18) years of age; and
 - (B) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of:
 - (i) managing or directing the management of the individual's property; or
 - (ii) providing or directing the provision of self-care.

(d) A statement or videotape that:

- (1) is made by a person who at the time of trial is a protected

- 1 person;
- 2 (2) concerns an act that is a material element of an offense listed in
- 3 subsection (a) or (b) that was allegedly committed against the
- 4 person; and
- 5 (3) is not otherwise admissible in evidence;
- 6 is admissible in evidence in a criminal action for an offense listed in
- 7 subsection (a) or (b) if the requirements of subsection (e) are met.
- 8 (e) A statement or videotape described in subsection (d) is admissible
- 9 in evidence in a criminal action listed in subsection (a) or (b) if, after
- 10 notice to the defendant of a hearing and of the defendant's right to be
- 11 present, all of the following conditions are met:
- 12 (1) The court finds, in a hearing:
- 13 (A) conducted outside the presence of the jury; and
- 14 (B) attended by the protected person;
- 15 that the time, content, and circumstances of the statement or
- 16 videotape provide sufficient indications of reliability.
- 17 (2) The protected person:
- 18 (A) testifies at the trial; or
- 19 (B) is found by the court to be unavailable as a witness for one
- 20 (1) of the following reasons:
- 21 (i) From the testimony of a psychiatrist, physician, or
- 22 psychologist, and other evidence, if any, the court finds that the
- 23 protected person's testifying in the physical presence of the
- 24 defendant will cause the protected person to suffer serious
- 25 emotional distress such that the protected person cannot
- 26 reasonably communicate.
- 27 (ii) The protected person cannot participate in the trial for
- 28 medical reasons.
- 29 (iii) The court has determined that the protected person is
- 30 incapable of understanding the nature and obligation of an
- 31 oath.
- 32 (f) If a protected person is unavailable to testify at the trial for a
- 33 reason listed in subsection (e)(2)(B), a statement or videotape may be
- 34 admitted in evidence under this section only if the protected person was
- 35 available for cross-examination:
- 36 (1) at the hearing described in subsection (e)(1); or
- 37 (2) when the statement or videotape was made.
- 38 (g) A statement or videotape may not be admitted in evidence under
- 39 this section unless the prosecuting attorney informs the defendant and
- 40 the defendant's attorney at least ten (10) days before the trial of:
- 41 (1) the prosecuting attorney's intention to introduce the statement
- 42 or videotape in evidence; and
- 43 (2) the content of the statement or videotape.
- 44 (h) If a statement or videotape is admitted in evidence under this
- 45 section, the court shall instruct the jury that it is for the jury to
- 46 determine the weight and credit to be given the statement or videotape
- 47 and that, in making that determination, the jury shall consider the
- 48 following:
- 49 (1) The mental and physical age of the person making the statement

or videotape.

(2) The nature of the statement or videotape.

(3) The circumstances under which the statement or videotape was made.

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 49. IC 35-37-4-8, AS AMENDED BY P.L.2-2005, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) This section applies to a criminal action under the following:

(1) Sex crimes (IC 35-42-4).

(2) Battery upon a child (IC 35-42-2-1(a)(2)(B)).

(3) Kidnapping and confinement (IC 35-42-3).

(4) Incest (IC 35-46-1-3).

(5) Neglect of a dependent (IC 35-46-1-4).

(6) Human and sexual trafficking crimes (IC 35-42-3.5).

~~(6)~~ (7) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through ~~(5)~~: **(6)**.

(b) As used in this section, "protected person" has the meaning set forth in section 6 of this chapter.

(c) On the motion of the prosecuting attorney, the court may order that the testimony of a protected person be taken in a room other than the courtroom, and that the questioning of the protected person by the prosecution and the defense be transmitted using a two-way closed circuit television arrangement that:

(1) allows the protected person to see the accused and the trier of fact; and

(2) allows the accused and the trier of fact to see and hear the protected person.

(d) On the motion of the prosecuting attorney or the defendant, the court may order that the testimony of a protected person be videotaped for use at trial. The videotaping of the testimony of a protected person under this subsection must meet the requirements of subsection (c).

(e) The court may not make an order under subsection (c) or (d) unless:

(1) the testimony to be taken is the testimony of a protected person who:

(A) is the alleged victim of an offense listed in subsection (a) for which the defendant is being tried or is a witness in a trial for an offense listed in subsection (a); and

(B) is found by the court to be a protected person who should be permitted to testify outside the courtroom because:

(i) the court finds from the testimony of a psychiatrist, physician, or psychologist and any other evidence that the protected person's testifying in the physical presence of the

- 1 defendant would cause the protected person to suffer serious
- 2 emotional harm and the court finds that the protected person
- 3 could not reasonably communicate in the physical presence of
- 4 the defendant to the trier of fact;
- 5 (ii) a physician has certified that the protected person cannot be
- 6 present in the courtroom for medical reasons; or
- 7 (iii) evidence has been introduced concerning the effect of the
- 8 protected person's testifying in the physical presence of the
- 9 defendant, and the court finds that it is more likely than not that
- 10 the protected person's testifying in the physical presence of the
- 11 defendant creates a substantial likelihood of emotional or
- 12 mental harm to the protected person;
- 13 (2) the prosecuting attorney has informed the defendant and the
- 14 defendant's attorney of the intention to have the protected person
- 15 testify outside the courtroom; and
- 16 (3) the prosecuting attorney informed the defendant and the
- 17 defendant's attorney under subdivision (2) at least ten (10) days
- 18 before the trial of the prosecuting attorney's intention to have the
- 19 protected person testify outside the courtroom.
- 20 (f) If the court makes an order under subsection (c), only the
- 21 following persons may be in the same room as the protected person
- 22 during the protected person's testimony:
- 23 (1) A defense attorney if:
- 24 (A) the defendant is represented by the defense attorney; and
- 25 (B) the prosecuting attorney is also in the same room.
- 26 (2) The prosecuting attorney if:
- 27 (A) the defendant is represented by a defense attorney; and
- 28 (B) the defense attorney is also in the same room.
- 29 (3) Persons necessary to operate the closed circuit television
- 30 equipment.
- 31 (4) Persons whose presence the court finds will contribute to the
- 32 protected person's well-being.
- 33 (5) A court bailiff or court representative.
- 34 (g) If the court makes an order under subsection (d), only the
- 35 following persons may be in the same room as the protected person
- 36 during the protected person's videotaped testimony:
- 37 (1) The judge.
- 38 (2) The prosecuting attorney.
- 39 (3) The defendant's attorney (or the defendant, if the defendant is
- 40 not represented by an attorney).
- 41 (4) Persons necessary to operate the electronic equipment.
- 42 (5) The court reporter.
- 43 (6) Persons whose presence the court finds will contribute to the
- 44 protected person's well-being.
- 45 (7) The defendant, who can observe and hear the testimony of the
- 46 protected person with the protected person being able to observe or
- 47 hear the defendant. However, if the defendant is not represented by
- 48 an attorney, the defendant may question the protected person.
- 49 (h) If the court makes an order under subsection (c) or (d), only the

following persons may question the protected person:

- (1) The prosecuting attorney.
- (2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).
- (3) The judge.

SECTION 50. IC 35-41-1-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnapping or confinement under IC 35-42-3.
- (4) Human and sexual trafficking crimes under IC 35-42-3.5.**
- ~~(4)~~ **(5)** A sex offense under IC 35-42-4.
- ~~(5)~~ **(6)** Robbery under IC 35-42-5.
- ~~(6)~~ **(7)** Arson or mischief under IC 35-43-1.
- ~~(7)~~ **(8)** Burglary or trespass under IC 35-43-2.
- ~~(8)~~ **(9)** Disorderly conduct under IC 35-45-1.
- ~~(9)~~ **(10)** Intimidation or harassment under IC 35-45-2.
- ~~(10)~~ **(11)** Voyeurism under IC 35-45-4.
- ~~(11)~~ **(12)** Stalking under IC 35-45-10.
- ~~(12)~~ **(13)** An offense against family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.

SECTION 51. IC 35-42-1-1, AS AMENDED BY ESB 193-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A person who:

- (1) knowingly or intentionally kills another human being;
- (2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct, kidnapping, rape, robbery, **human trafficking, promotion of human trafficking, sexual trafficking of a minor**, or carjacking;
- (3) kills another human being while committing or attempting to commit:

- (A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
- (B) dealing in or manufacturing methamphetamine (IC 35-48-4-1.1);
- (C) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (D) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- or
- (E) dealing in a schedule V controlled substance; or
- (4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365);

commits murder, a felony.

SECTION 52. IC 35-42-3.5 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2006]:

Chapter 3.5. Human and Sexual Trafficking

Sec. 1. (a) A person who knowingly or intentionally recruits, harbors, or transports another person by force, threat of force, or fraud:

(1) to engage the other person in:

(A) forced labor; or

(B) involuntary servitude; or

(2) to force the other person into:

(A) marriage; or

(B) prostitution;

commits promotion of human trafficking, a Class B felony.

(b) A parent, guardian, or custodian of a child less than eighteen (18) years of age who knowingly or intentionally sells or transfers custody of the child for the purpose of prostitution commits sexual trafficking of a minor, a Class A felony.

(c) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

(1) forced labor;

(2) involuntary servitude; or

(3) prostitution;

commits human trafficking, a Class C felony.

Sec. 2. In addition to any sentence or fine imposed for a conviction of an offense under section 1 of this chapter, the court shall order the person convicted to make restitution to the victim of the crime under IC 35-50-5-3.

Sec. 3. (a) If a person is convicted of an offense under section 1 of this chapter, the victim of the offense:

(1) has a civil cause of action against the person convicted of the offense; and

(2) may recover the following from the person in the civil action:

(A) Actual damages.

(B) Court costs.

(C) Punitive damages, when determined to be appropriate by the court.

(D) Reasonable attorney's fees.

(b) An action under this section must be brought not more than two (2) years after the date the person is convicted of the offense under section 1 of this chapter.

Sec. 4. (a) An alleged victim of an offense under section 1 of this chapter:

(1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;

(2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and

(3) shall be provided protection if the victim's safety is at risk

or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:

(A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and

(B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the division of family resources, as appropriate.

(b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

SECTION 53. IC 35-45-6-1, AS AMENDED BY ESB 193-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

"Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to

conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1.

(2) A violation of IC 35-45-9.

(3) A violation of IC 35-47.

(4) A violation of IC 35-49-3.

(5) Murder (IC 35-42-1-1).

(6) Battery as a Class C felony (IC 35-42-2-1).

(7) Kidnapping (IC 35-42-3-2).

(8) Human and sexual trafficking crimes (IC 35-42-3.5).

~~(8)~~ (9) Child exploitation (IC 35-42-4-4).

~~(9)~~ (10) Robbery (IC 35-42-5-1).

~~(10)~~ (11) Carjacking (IC 35-42-5-2).

~~(11)~~ (12) Arson (IC 35-43-1-1).

~~(12)~~ (13) Burglary (IC 35-43-2-1).

~~(13)~~ (14) Theft (IC 35-43-4-2).

~~(14)~~ (15) Receiving stolen property (IC 35-43-4-2).

~~(15)~~ (16) Forgery (IC 35-43-5-2).

~~(16)~~ (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).

~~(17)~~ (18) Bribery (IC 35-44-1-1).

~~(18)~~ (19) Official misconduct (IC 35-44-1-2).

~~(19)~~ (20) Conflict of interest (IC 35-44-1-3).

~~(20)~~ (21) Perjury (IC 35-44-2-1).

~~(21)~~ (22) Obstruction of justice (IC 35-44-3-4).

~~(22)~~ (23) Intimidation (IC 35-45-2-1).

~~(23)~~ (24) Promoting prostitution (IC 35-45-4-4).

~~(24)~~ (25) Promoting professional gambling (IC 35-45-5-4).

~~(25)~~ (26) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

~~(26)~~ (27) Dealing in or manufacturing methamphetamine (IC 35-48-4-1.1).

~~(27)~~ (28) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

~~(28)~~ (29) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

~~(29)~~ (30) Dealing in a schedule V controlled substance (IC 35-48-4-4).

~~(30)~~ (31) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

~~(31)~~ (32) Money laundering (IC 35-45-15-5).

~~(32)~~ (33) A violation of IC 35-47.5-5.

SECTION 54. IC 35-50-5-3, AS AMENDED BY EHB 1101-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Except as provided in subsection (i) or (j), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the

family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

- (1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);
- (2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;
- (3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;
- (4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and
- (5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a), or (i), or (j) is a judgment lien that:

- (1) attaches to the property of the person subject to the order;
- (2) may be perfected;
- (3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and
- (4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

- (1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:
 - (A) the amount of the award, if any, paid to the victim under IC 5-2-6.1; and
 - (B) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; or
- (2) a probation department that shall forward restitution or part of restitution to:
 - (A) a victim of a crime;
 - (B) a victim's estate; or
 - (C) the family of a victim who is deceased.

The victim services division of the Indiana criminal justice institute shall deposit the restitution it receives under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a), (i), or (j), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

- (1) The name and address of the person that is to receive the restitution.
- (2) The amount of restitution the person is to receive.

1 Upon receiving the order, the clerk shall enter and index the order in the
 2 circuit court judgment docket in the manner prescribed by IC 33-32-3-2.
 3 The clerk shall also notify the department of insurance of an order of
 4 restitution under subsection (i).

5 (e) An order of restitution under subsection (a), (i), or (j), does not bar
 6 a civil action for:

7 (1) damages that the court did not require the person to pay to the
 8 victim under the restitution order but arise from an injury or
 9 property damage that is the basis of restitution ordered by the court;
 10 and

11 (2) other damages suffered by the victim.

12 (f) Regardless of whether restitution is required under subsection (a)
 13 as a condition of probation or other sentence, the restitution order is not
 14 discharged by the completion of any probationary period or other
 15 sentence imposed for a felony or misdemeanor.

16 (g) A restitution order under subsection (a), (i), or (j), is not
 17 discharged by the liquidation of a person's estate by a receiver under
 18 IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6,
 19 IC 34-1-12, or IC 34-2-7 before their repeal).

20 (h) The attorney general may pursue restitution ordered by the court
 21 under subsections (a) and (c) on behalf of the victim services division
 22 of the Indiana criminal justice institute established under IC 5-2-6-8.

23 (i) The court may order the person convicted of an offense under
 24 IC 35-43-9 to make restitution to the victim of the crime. The court
 25 shall base its restitution order upon a consideration of the amount of
 26 money that the convicted person converted, misappropriated, or
 27 received, or for which the convicted person conspired. The restitution
 28 order issued for a violation of IC 35-43-9 must comply with subsections
 29 (b), (d), (e), and (g), and is not discharged by the completion of any
 30 probationary period or other sentence imposed for a violation of
 31 IC 35-43-9.

32 (j) The court may order the person convicted of an offense under
 33 IC 35-43-5-3.5 to make restitution to the victim of the crime, the
 34 victim's estate, or the family of a victim who is deceased. The court
 35 shall base its restitution order upon a consideration of the amount of
 36 fraud or harm caused by the convicted person and any reasonable
 37 expenses (including lost wages) incurred by the victim in correcting the
 38 victim's credit report and addressing any other issues caused by the
 39 commission of the offense under IC 35-43-5-3.5. If, after a person is
 40 sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's
 41 estate, or the family of a victim discovers or incurs additional expenses
 42 that result from the convicted person's commission of the offense under
 43 IC 35-43-5-3.5, the court may issue one (1) or more restitution orders
 44 to require the convicted person to make restitution, even if the court
 45 issued a restitution order at the time of sentencing. For purposes of
 46 entering a restitution order after sentencing, a court has continuing
 47 jurisdiction over a person convicted of an offense under IC 35-43-5-3.5
 48 for five (5) years after the date of sentencing. Each restitution order
 49 issued for a violation of IC 35-43-5-3.5 must comply with subsections

(b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for an offense under IC 35-43-5-3.5.

(k) The court shall order a person convicted of an offense under IC 35-42-3.5 to make restitution to the victim of the crime in an amount equal to the greater of the following:

(1) The gross income or value to the person of the victim's labor or services.

(2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of:

(A) the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209); or

(B) IC 22-2-2 (Minimum Wage);

whichever is greater.

SECTION 55. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 5-2-6-3.5; IC 5-2-12.

SECTION 56. [EFFECTIVE JULY 1, 2006] **(a) The sentencing policy study committee shall study issues related to human and sexual trafficking.**

(b) This SECTION expires December 31, 2006.

SECTION 57. [EFFECTIVE JULY 1, 2006] **IC 11-8-8-15, IC 11-8-8-17, IC 11-8-8-18, IC 35-42-4-10, and IC 35-44-3-13, all as added by this act, and IC 35-42-4-11 and IC 35-43-1-2, both as amended by this act, apply only to crimes committed after June 30, 2006.**

SECTION 58. [EFFECTIVE JULY 1, 2006] **Notwithstanding IC 10-13-6-10, IC 10-13-6-11, IC 35-38-2-2.3, IC 35-38-2.5-6, and IC 35-38-2.6-3, all as amended by this act, and IC 35-38-1-27, as added by this act, a probation department, community corrections department, or other agency supervising an offender on conditional release is not required to collect a DNA sample before October 1, 2006. However, a probation department, community corrections department, or other agency supervising an offender on conditional release is authorized to collect a DNA sample before October 1, 2006, and a DNA sample collected before October 1, 2006, may be analyzed and placed in the convicted offender data base.**

SECTION 59. [EFFECTIVE JULY 1, 2006] **IC 35-38-2-2.6 and IC 35-50-6-1, both as added by this act, apply only to crimes committed after June 30, 2006.**

SECTION 60. [EFFECTIVE UPON PASSAGE] **(a) The department of correction shall report to the budget committee on or before August 1, 2006, concerning the estimated costs of implementing IC 11-13-3-4(i), as added by this act, and the feasibility of recovering those costs from offenders.**

(b) This SECTION expires July 1, 2007.

SECTION 61. [EFFECTIVE JULY 1, 2006] **(a) The department of correction shall report to the legislative council before November 1 of each year concerning the department's implementation of**

lifetime parole and GPS monitoring for sex offenders. The report must include information relating to:

- (1) the expense of lifetime parole and GPS monitoring;
- (2) recidivism; and
- (3) any proposal to make the program of lifetime parole and GPS monitoring less expensive or more effective, or both.

(b) The report described in subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires November 2, 2010.

SECTION 62.P.L.61-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

- (1) ensure that sentencing laws and policies protect the public safety;
- (2) establish fairness and uniformity in sentencing laws and policies;
- (3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and
- (4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

- (1) the purposes of the criminal justice and corrections systems;
- (2) the availability of sentencing options; and
- (3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

- (1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

(B) The deterrent effect a particular classification may have on the commission of the offense.

(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

- (2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment,

probation, restitution, community service, or house arrest. The committee shall also consider the following:

- (A) The nature and characteristics of the offense.
- (B) The severity of the offense in relation to other offenses.
- (C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.
- (D) The defendant's number of prior convictions.
- (E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.
- (F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

- (A) standardizing procedures and establishing rules for the supervision of home detainees; and
 - (B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.
- (4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.
- (5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.
- (6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.
- (7) Recommend a comprehensive community corrections strategy based on the following:

- (A) A review of existing community corrections programs.
 - (B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.
 - (C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.
 - (D) The identification of necessary changes in state oversight and coordination of community corrections programs.
 - (E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.
 - (F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.
- (8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.
- (9) Evaluate the use of faith based organizations as an alternative

to incarceration.

(10) Study issues related to sex offenders, including:

(A) lifetime parole;

(B) GPS or other electronic monitoring;

(C) a classification system for sex offenders;

(D) recidivism; and

(E) treatment.

(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair. **The committee may meet as often as necessary.**

(f) The committee consists of ~~nineteen (19)~~ **twenty (20)** members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The chief justice of the supreme court or the chief justice's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The director of the Indiana criminal justice institute or the director's designee.

(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.

(7) The executive director of the public defender council of Indiana or the executive director's designee.

(8) One (1) person with experience in administering community corrections programs, appointed by the governor.

(9) One (1) person with experience in administering probation programs, appointed by the governor.

(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting advisor to the committee.

(g) The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(i) A legislative member of the committee may be removed at any

1 time by the appointing authority who appointed the legislative member.

2 (j) If a vacancy exists on the committee, the appointing authority who
3 appointed the former member whose position is vacant shall appoint an
4 individual to fill the vacancy.

5 (k) The committee shall submit a final report of the results of its study
6 to the legislative council before November 1, 2006. The report must be
7 in an electronic format under IC 5-14-6.

8 (l) The Indiana criminal justice institute shall provide staff support to
9 the committee.

10 (m) Each member of the committee is entitled to receive the same per
11 diem, mileage, and travel allowances paid to individuals who serve as
12 legislative and lay members, respectively, of interim study committees
13 established by the legislative council.

14 (n) The affirmative votes of a majority of the **voting** members
15 appointed to the committee are required for the committee to take action
16 on any measure, including the final report.

17 (o) Except as otherwise specifically provided by this act, the
18 committee shall operate under the rules of the legislative council. All
19 funds necessary to carry out this act shall be paid from appropriations
20 to the legislative council and legislative services agency.

21 (p) This SECTION expires December 31, 2006.

22 SECTION 63. [EFFECTIVE JULY 1, 2006] **IC 35-44-3-9.3, as**
23 **added by this act, applies only to crimes committed after June 30,**
24 **2006.**

25 SECTION 64. **An emergency is declared for this act.**

(Reference is to EHB 1155 as reprinted March 1, 2006.)

Conference Committee Report
on
Engrossed House Bill 1155

Signed by:

Representative Budak
Chairperson

Senator Long

Representative Bardon

Senator Simpson

House Conferees

Senate Conferees